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DOWNS RACHLIN MARTIN PLLC
199 MAIN STREET
P O BOX 190
BURLINGTON VT 05402-0190

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of :
Landvater :
Application No. 09/899,593 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. B06521-00007 :

This is a decision on the petition, filed February 26, 2007, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

It appears that petitioner intended to file a petition under 37 CFR 1.137(b), not 37 CFR 1.137(f), given the fact that the application is abandoned for failure to properly respond to the final Office action of August 2, 2006.

Petitioner is requested to clarify what type of petition is intended to be filed. Please keep in mind that the statement of delay in a 137(f) petition is not the same as the required statement of delay in a 137(f) petition. If petitioner desires to file a 137(b) petition, petitioner should specify the RCE filed February 26, 2007 as his reply and request that the $1,500.00 petition fee paid with the 137(f) petition be applied toward the 137(b) petition.

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
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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FROM DIRECTOR'S OFFICE

OCT 23 2007

TECHNOLOGY CENTER 3600

Lawrence H. Meier.
199 Main Street, P.O. Box 190
Burlington, VT 05402-190

In re Application of	:	
LANDVATER, DARRYL V.	:	RESPONSE TO PETITION
Application No. 09/899,593	:	TO EXPUNGE FILED
Filed: April 4, 2007	:	UNDER 37 CFR 1.59(b)

For: METHOD AND SYSTEM FOR RETAIL STORE SUPPLY CHAIN SALES FORECASTING AND REPLENISHMENT SHIPMENT DETERMINATION

This is a response to the petition under 37 CFR 1.59(b), filed April 4, 2007, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the proprietary material, filed April 4, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. 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 that the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

In the meantime, the document will be closed whereby any non-Patent and Trademark Office personnel will be precluded from viewing or having access to the document, such as via public PAIRs.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

TH/snm: 10/7/07

SM

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199 MAIN STREET
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BURLINGTON VT 05402-0190

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DEC 27 2007

OFFICE OF PETITIONS

In re Application of :
Landvater :
Application No. 09/899,593 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. B06521-00007 :

This is a decision on the petition under 37 CFR 1.137(b), filed on September 28, 2007, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed August 2, 2006, which set an extendable three month period for reply. Petitioner obtained a three month extension of time and filed an amendment on September 2, 2007. The amendment failed to place this application in *prima facie* condition for allowance, as was explained in the February 9, 2007 Advisory Action. Therefore, the application became abandoned on February 3, 2007.

Applicant has submitted a RCE and required $790.00 fee and request to use the February 2, 2007 amendment as his submission in reply to the August 2, 2006 final Office action, a proper statement of the unintentional nature of the delay in responding to the August 2, 2006 final Office action, and the $1,500.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3623 for consideration of the RCE filed on February 26, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,593	07/05/2001	Darryl V. Landvater	B06521-00007	4023

21918 7590 01/14/2009
DOWNS RACHLIN MARTIN PLLC
199 MAIN STREET
P O BOX 190
BURLINGTON, VT 05402-0190

EXAMINER
JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
3624	

MAIL DATE	DELIVERY MODE
01/14/2009	PAPER

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

The time period for reply, if any, is set in the attached communication.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 13 2009

Lawrence H. Meier
DOWNS RACHLIN MARTIN PLLC
199 Main Street, P.O. Box 190
BURLINGTON, VT 05402-0190

In re Application of LANDVATER, DARRYL V. Application No. 09/899,593 Filed: July 5, 2001 For: METHOD AND SYSTEM FOR RETAIL STORE SUPPLY CHAIN SALES FORECASTING AND REPLENISHMENT SHIPMENT DETERMINATION	RESPONSE TO PETITION TO EXPUNGE FILED UNDER 37 CFR §1.59(b)

This is a decision on the petition under 37 CFR 1.59(b), filed April 4, 2007, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that a document entitled Proprietary Information Under 37 CFR 1.56 and MPEP 742 and 724.02, filed April 4, 2007, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material is returned herewith.

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

Any questions regarding this letter should be directed to Bradley Bayat at (571) 272-6704.

Wynn Coggins, Group Director
Technology Center 3600
(571) 272-5350

SM/bbb: 12/17/08
SM
Attachment: Contents of Proprietary Information filed April 4, 2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

Merchant & Gould, PC
PO Box 2903
Minneapolis, Minnesota 55402-0903

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SEP 2 6 2001

OFFICE OF PETITIONS

In re Application of :
Yao, Sundar, Wang, Ku :
Application No. 09/899,597 :
Filed: July 5, 2001 :
Attorney Docket No. SEA2655/2087 :

ON PETITION

This is a decision on the "Petition to Accept New Declaration Under 37 CFR 1.64(a) and 37 CFR 1.47(a) filed May 11, 2001. The petition under 37 CFR 1.64(a) shall be treated as a petition under 37 CFR 1.182 to withdraw the previously filed declaration and as a petition under 1.183 to waive the requirements of 37 CFR 1.67.

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

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

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

The instant petition was filed on May 11, 2001, after petitioner realized that the originally filed declaration incorrectly claimed priority to provisional application 60/078,625. In the instant petition, petitioner requests that this error be corrected by the acceptance of the declaration filed with the instant petition. It is noted, however, that petitioner alleges that petitioner was unable to obtain the signature of inventor Ku on the new declaration and has, therefore, filed a petition under 37 CFR 1.47(a) accordingly.

In accordance with 37 CFR 1.182, the declaration originally filed will be withdrawn and replaced by the new declaration filed May 11, 2001. Pursuant to 37 CFR 1.183, the requirements of 37 CFR 1.67 will be waived and the signatures as provided on the originally filed declaration will be applied to the new declaration filed as no substantive attestations made by the inventors were affected by the correction to the priority data. The petition under 37 CFR 1.47(a) is, therefore, moot.

The file is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

Kenya A. McLaughlin
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6,980,813	2005-12-27	09/899,612	2001-07-05	01-106

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	/Lawrence S. Cohen/	Date (YYYY-MM-DD)	2010-02-24
Name	Lawrence S. Cohen	Registration Number	25225

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6980813
Issue Date: December 27,2005
Application No. 09899612
Filed: July 5,2001
Attorney Docket No. 01/106

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

This is a decision on the electronic petition, filed February 24,2010 ,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 24,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

20 MAY 2002

Frank S. Vaden, III
Bracewell & Patterson, L.L.P.
P.O. Box 61389
Houston, Texas 77208

In re Application of:	)	
Winthrop Eastman	)	
Application No. 09/899,661	)	
Filed: July 5, 2001	)	**DECISION ON REQUEST FOR**
For: METHOD FOR SHIPPING	)	**WITHDRAWAL AS ATTORNEY**
TEMPERATURE-SENSITIVE	)	
GOODS	)	

This is a decision on the Request To Withdraw from Representation filed March 18, 2002.

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

The request is signed by Frank S. Vaden, III alone and does not contain a clear indication that Mr. Vaden is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record.

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
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 23 2004

Paper No. 12

In re Application of :
Ebarhard Frölich *et al* : DECISION ON PETITION
Application No. 09/899,694 :
Filed: July 5, 2001 :
Attorney Docket No. P6338.7US

This is a decision on the petition filed by facsimile transmission on December 3, 2003 by which petitioners request.s withdrawal of this application from issue. The petition is considered pursuant to 37 CFR 1.313(a), and the $130.00 petition fee will be charged to Deposit Account No. 50-1199.

The petition is granted.

Petitioners request that this application be withdrawn from issue due to the unpatentability of one or more claims, and have submitted a listing of the prior art which renders the claims unpatentable, together with a proposed amendment. The petition was filed prior to payment of the issue fee on December 4, 2003. Therefore, the petition clearly satisfies the requirements of 37 CFR 1.313(a).

Accordingly, this application will be withdrawn from issue. The issue and publication fees will not be refunded at this time. The application will be forwarded to the Head Supervisory Applications Examiner to charge the $130.00 petition fee, and after withdrawal from issue, will be forwarded to the examiner for consideration of the submitted prior art and the amended claims.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Gundren E. Huckett
Lönsstr. 53
42289 Wuppertal VIA AIR MAIL
Germany

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. 21

John S. Pratt
Kilpatrick Stockton, LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

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DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Robert J. D'Amato et al. :
Application No. 09/899,702 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. 05213-091(43170-219505)

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 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), The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed June 4, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee as required by 37 CFR 1.17(b), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) under 37 CFR 114 or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted with the present petition does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE or the filing of a continuing application. See the attached Advisory Action.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza 2, Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is (703) 872-6906.

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

Latrice Bond

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

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 24

JOHN S. PRATT
KILPATRICK STOCKTON
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

COPY MAILED

SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Robert J. D'Amato et al :
Application No. 09/899,702 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. 05213-091 (43170-219505) :

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

Petitioner states that this application is abandoned for failure to timely reply to the nonfinal Office action of November 29, 2002 within the period set therefor. In this regard, the reply mailed via certificate of mailing has the wrong date; i.e., February 26, 2002 rather than February 26, 2003. Therefore, the mailing certificate was defective and could not establish a proper date of receipt of the response under 37 CFR 1.8.

Petitioner is correct that the mailing certificate was defective and cannot be relied upon as establishing the date of mailing. Therefore, the effective date of receipt of the reply is the date of receipt in the USPTO; i.e., March 4, 2003. Accordingly, at the time of submission of the reply, a one month extension of time was due.

Effective December 1, 1997, 37 CFR 1.136(a)(3) permits a general authorization to treat any future reply requiring an extension of time as incorporating a request therefor. Any request or petition for extension of time will be treated as requesting the appropriate length of time. Papers will be liberally interpreted as petitions for extensions of time. Also, 37 CFR 1.136(a)(3) also treats a general authorization to charge all required fees or fees under 37 CFR 1.17 as a constructive petition for an extension of time for a concurrent or future reply requiring an extension of time.

Upon review of the file record, it is noted that, upon the filing of the application, the transmittal letter therefor contains a general authorization to charge "any additional fees required under 37 C.F.R. 1.16 or 1.17 to Deposit Account 11-0855." Accordingly, the presence of this general authorization in the file is being construed as a petition for a one month extension of time for the reply received on March 4, 2003. In view thereof, this application did not become abandoned for failure to timely reply to the Office action of November 29, 2002.

However, this application is abandoned for failure to timely reply to the final Office action of June 4, 2003, as petitioner has not submitted an amendment that places the application in condition for allowance. In this regard, note the attached copy of an Advisory Action from the Examiner. Accordingly, before revival of this application can be effected, a proper reply to the final Office action of June 4, 2003 must be submitted (i.e, Notice of Appeal, RCE and submission under 37 CFR 1.114, or continuation application under 37 CFR 1.53(b)).

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
Attn: Office of Petitions

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

Wan Laymon

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

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPHEN E. FELDMAN
STEPHEN E. FELDMAN, P.C.
TWELVE EAST 41ST STREET
SUITE 701
NEW YORK, NY 10017

COPY MAILED

NOV 30 2005

OFFICE OF PETITIONS

In re Application of	:	
CORBO	:	DECISION
Application No. 09/899,711	:	ON PETITION
Filed: July 5, 2001	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed February 24, 2005 under 37 CFR 1.181(no fee) for withdrawal of the holding of abandonment.

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

To summarize, a rejection of the claims of the above-identified application was made final on July 13, 2004. A Response to Final Office Action was received on October 18, 2004 (certificate of mailing of October 13, 2004). No Advisory Action was sent. A Request for Continued Examination (RCE) was filed on January 3, 2005, requesting entry of the October 13, 2004 amendment. Both the Response and the RCE included the wrong application number (*09/889,711* instead of the correct application number *09/899,711)*. A Notice of Abandonment was mailed to Applicant on February 4, 2005.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP §§502 and 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted and the entire record, it is concluded that the information contained thereon was sufficient to associate the papers with the instant file. Our records reflect that a RCE was filed on January 3, 2005 improperly identifying the wrong serial number (09/889,711) but otherwise having sufficient information to identify the correct application (09/899,711). Petitioner includes as evidence an itemized postcard receipt showing a USPTO date stamp of January 3, 2005 of the RCE, Express Certificate of Mailing, and a check for $395. This postcard also includes the incorrect application number but otherwise contains sufficient information (Applicant's name) to identify the correct application. Additionally and in accordance with 37 CFR 1.114(d) "if applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action[.]" As such once the RCE was filed, the finality of the July 13, 2004 Office Action was withdrawn. Based on the above, the holding of abandonment is withdrawn, and this application is recognized as never having been abandoned in the first instance.

The RCE was filed within the statutory period set forth in 35 USC 133. General authorization to charge an extension of time fee under the provision of 37 CFR 1.136 and 1.17 was provided in the RCE. The three-month extension of time fee will be charged to the deposit account provided.

As a final note, Office records indicate that the wrong application number has been included on numerous papers (e.g., Petition to Withdraw the Holding of Abandonment, RCE dated January 3, 2005 and the after-final amendment dated October 13, 2004) filed in the PTO. To assist the Office in matching papers with the above-identified application, please use the correct application number (09/899,711) in the future.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Art Unit 3714 for further processing.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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E. PALO ALTO CA 94303-2248

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FEB 29 2008

In re Application of	:	
Dana Corbo	:	
Application Number: 09/899711	:	DECISION ON PETITION
Filing Date: 07/05/2001	:	
Attorney Docket Number: 356543-3	:	

This is a decision on the petition filed on January 24, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on November 9, 2006, for failure to file a timely submit an Appeal Brief in response to the Notice of Appeal filed on September 8, 2006, 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 May 17, 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 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)).

This application is being referred to Technology Center Art Unit 3714 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: John E. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7647275	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/899,727	: 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 **2425** 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

Paper No. 6

MORRISS, BATEMAN, O'BRYANT & COMPAGNI, P.C.
5882 SOUTH 900 EAST, SUITE 300
SALT LAKE CITY UT 84121

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JAN 3 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Gary LeMon	:	
Application No. 09/899,728	:	DECISION GRANTING PETITION
Filed: July 3, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 1359.GLEM.C1	:	

This is a decision on the petition filed January 17, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **granted**.

This application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply [request to rescind the nonpublication request] from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(f) 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The instant petition has been found 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 as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date, May 9, 2002, accompanies this decision on petition.

This application is being forwarded to Technology Center AU 2164 for examination in due course.

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

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

Rosenman & Colin LLP
575 Madison Avenue
New York NY 10022-2585

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OFFICE OF PETITIONS

In re Application of :
Ahlers, et, al. :
Application No. 09/899,742 : DECISION GRANTING PETITION
Filed: July 3, 2001 :
Attorney Docket No. 3198/BDR :

This is a decision on the petition filed July 8, 2003, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of July 3, 2001, rather than the presently accorded filing date of July 4, 2001.

Petitioner alleges that the application was deposited with the Express Mail Service on July 3, 2001. In support of the allegation, the petition is accompanied by a statement from Shahan Islam detailing the application papers deposit and a communication from the United States Postal Service indicating that Express Mail package EL811588845US was received at the Patent and Trademark Office on July 5, 2001. The evidence is convincing that in order to be received by the Patent and Trademark Office on July 5, 2001, the package was likely deposited on July 3, 2001, as July 4, 2001, was a federal holiday and all United States post offices were closed.

In view of the above, the petition is granted. The new filing date for the above-cited application is July 3, 2001.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 3, 2001, and for issuance of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022-2585

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

Kimberly K. Baxter
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100

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Technology Center 2100

In re Application of: Steven J. Meyer)
Application No.: 09/899,763) **DECISION ON PETITION FOR**
Filed: July 5, 2001) **ACCELERATED EXAMINATION**
For: DIGITAL AND ANALOG MIXED) **UNDER M.P.E.P. §708.02(VIII)**
SIGNAL SIMULATION USING PLI)
API)

This is a decision on the petition, filed April 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, ...

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a ***detailed discussion of the references, which discussion points out, with the particularity*** required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn.

> In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it merely provides a brief synopsis of each reference accompanied by a statement of an advantage of the present invention over the reference. However, there is no showing as to the deficiencies of the references with respect to ***the claimed invention***. The submission does not satisfy the requirement, as it does not provide a ***detailed discussion*** of the references and it does not point out how the ***claimed subject matter is patentable over the references*** as required by section (e) to the extent required by 37 CFR 1.111(b) and (c).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Pinchus M. Laufer

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
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(703) 306-4160

US 0989978203P1

Creation date: 07-07-2003
Indexing Officer: RNEFTALIEM - RAHEL NEFTALIEM
Team: OIPEBackFileIndexing
Dossier: 09899782

Legal Date: 04-09-2002

No.	Doccode	Number of pages
1	PETDEC	1

Total number of pages: 1

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OFFICE OF PETITIONS

Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of
Price et al.
Application No. 09/899,808
Filed: November 28,2 006
Attorney Docket No.

: DECISION GRANTING LETTER

This decision is in response to Applicant's 'REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed on November 28, 2006 requesting that the USPTO review the PTA determination at the time of the mailing of the notice of allowance.

Applicant's letter concerning PTA is **GRANTED.** The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect a determination of **192 days** of PTA. A copy of the adjusted PTA calculation is provided with this determination.

Applicant asserts that the USPTO may have granted too much PTA at the time of the notice of allowance. Applicant requests review of the PTA determination but did not provide any assert any specific reason for the discrepancy.

A review of the record reflects that applicant is correct. The Office failed to reduce the PTA for the submission of the noncompliant RCE on January 23, 2006 a 102-day delay pursuant to 37 CFR 1.704(c)(7). The application filed the Request for Continued Examination (RCE) on January 23, 2006. However, the RCE submission was noncompliant because the amendment to the claims was not proper under the amendment rules. Applicants resubmitted the amendment in proper form on May 5, 2006. Accordingly, applicant delay should have occurred between January 24, 2006 and May 5, 2006. There was no error in the assessment of 463 days of USPTO delay under 37 CFR 1.702(a)(1). Nor was there any errors in assessment of applicant delays of 31 and 71 under 37 CFR 1.704(b). Overall, the amount of PTA is 192 (463-32-102-71=192).

The USPTO acknowledges that any delays pursuant to 37 CFR 1.702(a)(4) and 1.702(b) will be added at the time of the issuance of the patent and will be reflected in the PTA determination provided to applicant in the issue notification letter.

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

If applicant believes that the Office erred in calculating the PTA for reasons other than provided in this decision, applicant may provide further clarification as to the inaccuracy of such calculation.

Because applicants were providing good faith and candor notice as to the amount of PTA, no fee is being assessed.

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

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

cc: Adjusted PAIR calculation

Day : Tuesday
Date: 3/20/2007

PALM INTRANET

Time: 14:48:05

PTA Calculations for Application: 09/899808			
Application Filing Date:	07/05/2001	PTO Delay (PTO):	463
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	169
Post-Issue Petitions:	0	Total PTA (days):	192
PTO Delay Adjustment:	-102		

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74	07/24/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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26	01/09/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
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22	09/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
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11	02/22/2002	APPLICATION DISPATCHED FROM OIPE			
10	02/08/2002	APPLICATION IS NOW COMPLETE			
8	01/31/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		71	5
7	01/31/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	01/31/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
5	08/21/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	08/20/2001	CORRESPONDENCE ADDRESS CHANGE			
2	07/13/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/05/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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NOV - 9 2005

RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

In re application of Kazunori Suzuki et al. Application No. 09/899,818 Filed: July 9, 2001 For: RELAY SERVER, RELAYING METHOD AND PAYMENT SYSTEM	: : : : :	DECISION ON PETITION FOR THE ACCEPTANCE OF LATE PAPERS

This is in response to the Petition To Accept Timely Filed Papers filed July 19, 2005. There is no fee required for this petition.

The petition is **GRANTED**.

A review of the file record reveals that an Office Action was mailed on May 19, 2005, setting forth a two month shortened statutory response period. Applicants' petition indicates that a response to the Office action was filed on June 23, 2005. The Office did not receive the applicants' response to the Office Action. Applicants' petition includes a post card receipt that bears the Patent Office stamp of June 23, 2005. The post card receipt provides sufficient evidence that applicants timely filed a response to the Office Action.

Since the error is on the part of the Office, the late papers will be accepted. The application is being forwarded to the examiner for appropriate action.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/bkg: 11/8/05

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APR 12 2007

TECHNOLOGY CENTER 3600

RABIN & CHAMPAGNE, P.C.
1101 14th Street, N.W. Suite 500
Washington, D.C. 20005

In re Application of: Kazunori SUZUKI et. al.	:	PETITION UNDER 37
Application Number: 09/899,818	:	C.F.R. 1.181(a) TO
Filed: July 9, 2001	:	GRANT RELIEF FROM
For: RELAY SERVER, RELAYING METHOD AND	:	THE REQUIREMENT
PAYMENT SYSTEM	:	FOR INFORMATION

This is a decision on Applicant's Petition under 37 C.F.R. 1.181 received on August 26, 2005 to grant relief from the Requirement for Information under 37 C.F.R.1.105 submitted by the Examiner on May 19, 2005.

The Petition is **DISMISSED as moot.**

A review of the file record reveals that an Office Action was mailed May 19, 2005 wherein a requirement for information under 37 CFR 1.105 was set forth and a two-month shortened statutory period for response was set. On June 15, 2005, the examiner withdrew the requirement for information and indicated that no further action by applicant was necessary. A petition to accept a response filed July 23, 2005 was filed on July 19, 2005 and granted on November 9, 2005. (The response filed July 23, 2005 was not matched with the file).

The instant petition filed August 26, 2005 requests relief from the requirement for information set forth by the examiner in the Office action mailed May 19, 2005.

Since the examiner has withdrawn the requirement for Information under 37 CFR 1.105, as set forth in the interview summary mentioned above, this petition is hereby dismissed as moot.

Petitioner is reminded that a response to the Office action mailed March 29, 2007 is due on June 29, 2007.

SUMMARY: The Petition is **Dismissed as moot.**

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272 5350

WWC/JAK: 1/22/07

RABIN & BERDO, PC
Specializing in Patent, Trademark and Copyright Law

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In affiliation with
Weiss & Moy, PC
having offices in Arizona and Nevada,
and in Washington, DC with
Rabin & Berdo, PC

MEMO

To: Mr. James Kramer, PTO
From: Allen Wood, Reg. No. 28,134
Re: Application number 09/899,818
Date: January 24, 2007

Via Fax
(571-273-6783)

As discussed, here is a copy of an Interview Summary record. It appears to be dated June 15 '05, but I think it was actually faxed to me on November 3.

TO: MR. WOOD

FROM: MR. MILLER

Received Time Nov. 3. 8:24PM

PAGE 2/4 * RCVD AT 1/24/2007 1:59:55 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/14 * DNIS:2736783 * CSID:2024085297 * DURATION (mm-ss):01-22

Interview Summary	Application No. 09/899,818	Applicant(s) Suzuki
	Examiner Felten	Art Unit 3624

All participants (applicant, applicant's representative, PTO personnel):

(1) MR. WOOD (3)____.

(2) MR. Miller (4)____.

Date of Interview: 6/15/01

Type: a)☐ Telephonic b)☐ Video Conference
c)☐ Personal [copy given to: 1)☐ applicant 2)☐ applicant's representative]

Exhibit shown or demonstration conducted: d)☐ Yes e)☐ No.
If Yes, brief description: ____.

Claim(s) discussed: ____.

Identification of prior art discussed: ____.

Agreement with respect to the claims f)☐ was reached. g)☐ was not reached. h)☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: ____.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

(1) The 105 Request is withdrawn

(2) It has been concluded, that no necessity was shown by the examiner to make the 105 request.

(3) There is no need for applicant to respond to this request

(4) An action will be forthcoming

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

PAGE 3/4 * RCVD AT 1/24/2007 1:59:55 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/14 * DNIS:2736783 * CSID:2024085297 * DURATION (mm-ss):01-22

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)
In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or 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.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:
1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
   (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

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VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET SUITE 2500
SAN FRANCISCO CA 94105

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APR 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Raymond W. Ellis	:	
Application No. 09/899,833	:	DECISION ON PETITION
Filed: July 5, 2001	:	
Attorney Docket No. ASYS-01002US0	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 4, 2008.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file corrected drawings in response to the Notice of Allowability mailed June 27, 2007. This Notice set a statutory period for reply of three (3) months. No drawings having been received, the application became abandoned on September 28, 2007. The Office mailed a Notice of Abandonment on October 24, 2007.

On petition, petitioner argues that the Notice of Allowaibility's requirement for corrected drawings was made in error.

A review of the file confirms that petitioner previously filed corrected drawings on September 21, 2001, and that such drawings were indicated in multiple Office actions as having been accepted by the Examiner. Accordingly, from reviewing the file, it is obvious that the Notice of Allowability's requirement for corrected drawings was made in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to the Office of Patent Publication for processing into a patent, using the corrected drawings filed September 21, 2007.

Telephone inquiries regarding 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. 6

Salvatore J. Abbruzzese, Esq.
HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset NY 11791

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OFFICE OF PETITIONS

In re Application of
Dinh, Gupta, and Drane
Application No. 09/899,862
Filed: July 6, 2001
Attorney Docket No. 588-516 (T&B1632)
For: HANGER BAR ASSEMBLY

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

This is a decision on the petition under 37 CFR 1.47(a), filed January 7, 2002.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)." Failure to respond will result in abandonment of the application. Extensions of time are available and will be governed by 37 CFR 1.136(a).

The above-cited application was filed on July 6, 2001, without a declaration compliant with 37 CFR 1.63 executed by all named inventors. A "Notice of Missing Parts of Nonprovisional Application" (the "Notice") was mailed on August 23, 2001. The Notice required the payment of outstanding filing and claim fees, payment of a surcharge of $130.00 because of the late filing of the declaration, and the filing of a proper declaration executed by all named inventors. On January 7, 2002 (certificate of mailing dated October 24, 2001), petitioner filed the instant petition along with a request for an extension of time within the first month pursuant to 37 CFR 1.136(a), a declaration executed by inventors Dinh and Drane, and remitted the $130.00 surcharge.

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

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

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

(3) the petition fee; and,

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

The instant petition lacks item (1) as set forth above.

As to item (1), 37 CFR 1.47(a) provides that an application for patent may be made by the other inventors on behalf of themselves and the non-signing inventor if, among other requirements, proof of the pertinent facts surrounding the alleged refusal is provided. Section 409.03(d) of the *Manual of Patent Examining Procedure* (the "MPEP") provides guidance as to what will suffice as sufficient 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. This section states, in pertinent part, as follows:

> Before a refusal can be alleged , it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventors' attorney.

It is noted that petitioner made attempts to present inventor Gupta with a complete copy of the application papers by sending them to the last known address of Mr. Gupta and to what was believed to be the last known business address of Mr. Gupta. It is further noted that petitioner made an effort to locate Mr. Gupta by contacting his last known employer, however; it cannot be said that petitioner has exhausted all reasonable means of locating Mr. Gupta. The declaration attested to by Jill Pierce relative to the efforts to locate inventor Gupta does not indicate that petitioner attempted to locate inventor Gupta by conducting searches of regional telephone books, the Internet, or other databases. A preliminary search conducted by the Office of Petitions of the Internet revealed five cites listing a "Harsh Gupta." While it has not been determined that any of those persons listed are the Harsh Gupta that is the subject of this petition, the fact such information was readily available, but not discovered by petitioner, suggests that additional efforts should be undertaken by petitioner to locate inventor Gupta. Petitioner should provide the results of any search of available databases conducted with any "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" filed.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6919
Attn: Office of Petitions

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

Telephone inquiries should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

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

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Paper No. 10

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

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OFFICE OF PETITIONS

In re Application of
Dinh, Gupta, and Drane
Application No.: 09/899,862
Filed: July 6, 2001
Attorney Docket No: 588-516(T&B1632)
For: HANGER BAR ASSEMBLY

ON RENEWED PETITION

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

The petition is **MOOT.**.

The initial petition under 37 CFR 1.47(a) was filed on January 7, 2002, in response to a "Notice to File Missing Parts of Non-Provisional Application" (the "Notice") which indicated that a proper oath or declaration had not been filed and that a surcharge for either a late filing fee or oath or declaration was due and owing. A decision dismissing the petition was mailed on February 13, 2002, indicated that petitioner did not satisfactorily establish that a diligent effort had been made to locate inventor Gupta. The decision also advised petitioner of the two-month period for reply beginning from the mailing date of the decision and that extension of time for reply were available pursuant to 37 CFR 1.136(a). On April 12, 2002, petitioner filed a renewed petition. Petitioner also filed a declaration executed by inventor Gupta who was previously the non-signing inventor.

As petitioner has secured a proper oath or declaration from Mr. Gupta, there is no outstanding issue relative to the instant application that could be remedied by a petition filed pursuant to 37 CFR 1.47(a). The renewed petition is, therefore, rendered moot by the filing of Mr. Gupta's declaration.

The assignment documents and Recordation form filed April 12, 2002, are noted and made of record. The originals of both documents are being forward to the Assignment Branch with copies of each being placed in the application file.

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.

K. A. McLaughlin

Kenya A. McLaughlin
Petition Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-13-06

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction on Patent No.: 7014552 B1 (09/899871)

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

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

Should these claims be entered? [illegible]

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

LEE D. WILSON
PRIMARY EXAMINER

[illegible]
SPE

3723
Art Unit

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OCT 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Mohsen Shahinpoor et al :
Application No. 09/899,874 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. 2313-00 :

This is a decision on the petition under 37 CFR 1.181, filed April 28, 2005, to withdraw the holding of abandonment in the above-identified application.

The petition to withdraw the holding of abandonment is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Petitioner is advised that this is **not** a final agency action.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance mailed November 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 11, 2005.

Petitioner requests withdrawal of the holding of abandonment on the grounds that the examiner advised petitioner not to pay the issue fee because he was going to provide a supplemental Notice of Allowance.

The Office notes that alleged oral advice by a USPTO employee cannot be accepted as evidence in this petition.[1] Moreover, the Notice of Allowance mailed November 10, 2004 contains only minor errors in the title. A duplicate Notice of Allowance correcting the errors may be requested from the Technology Center that mailed the Notice. However, a new issue fee due date will not be provided if the information on the original Notice of Allowance is sufficient to allow a reasonable person to timely file the proper issue fee in the correct application. Specifically, the mere filing of a request for a corrected or duplicate Notice of Allowance will not act to stay the period for paying the issue fee.[2]

For the above stated reasons, the petition is dismissed.

Petitioner may wish to consider filing a petition under 37 CFR 1.137 to revive this application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *See* 37 CFR 1.2.

[2] *See* Official Gazette of June 12, 1985

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JJGJR.: 07-06

Paper No: __

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of
Shahinpoor, et al. :
Application No. 09/899,874 :
Filing Date: 5 July, 2001
Attorney Docket No. 2313-00 :

This is a decision on the renewed petition filed on 16 November, 2005, alleging 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
(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.)

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 of Allowance/Allowability and Fees Due mailed on 10 November, 2004, with reply due under a non-extendable deadline on or before 10 February, 2005;
- the application went abandoned after midnight 10 February, 2005;
- on 22 November, 2004, and 15 March, 2005, Petitioner filed a request for a correction of the title of the application from "A Method of Frabricating a Dry Electro-Active Polymeric Synthetic Muscle" to "A Method of Fabricating a Dry Electro-Active Polymeric Synthetic Muscle" (emphasis supplied), which requests appear–from the Office reply of 28 March, 2005–to have been mis-understood/mis-interpreted;
- however, this was resolved by the 12 April, 2005, Supplemental Notice of Allowability mailed by the Examiner to address the misspelling;
- the Office mailed the Notice of Abandonment on 14 April, 2005;
- Petitioner paid the Issue Fee on 28 April, 2005, at which time he also filed a request to withdraw the holding of abandonment, in which he averred that the Examiner instructed him to delay in payment of the Issue Fee, which request was dismissed on 10 October, 2005;
- 16 November, 2005, Petitioner filed the instant petition with fee, and averred once again that the Examiner instructed him over the telephone to delay in payment of the Issue Fee–this is the basis of Petitioner's allegation of unavoidable delay.

Petitioner, long a registered practitioner before the Office, is well aware that not only is all

practice before the Office is in writing (under 37 C.F.R. §1.2[2]), but that once the Notice of Allowance/Allowability and Fees Due (the Notice) is mailed, in the absence of a written action withdrawing the Notice no one has the authority to instruct the Petitioner not to pay the Fees Due.[3]

Petitioner was on the right track as he sought in writing from the Office a correction of the title misspelling, and, in fact, the Examiner ordered, via Supplemental Notice of Allowability, the correction at issue.

---

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

[3] See: MPEP §1306, in pertinent parr:

1306 Issue Fee [R-2]

The issue fee *>and any required publication fee are< due 3 months from the date of the Notice of Allowance. The amount of the issue fee **>and any required publication fee are shown on the Notice of Allowance, which will reflect any issue fee previously paid in the application. For example, if the application was allowed and the issue fee paid, but applicant withdrew the application from issue and filed a Request for Continued Examination (RCE) and the application was later allowed, the Notice of Allowance will reflect an issue fee amount that is due that is the difference between the current issue fee amount and the issue fee that was previously paid. Had applicant filed a Continued Prosecution Application (CPA) instead of an RCE, the issue fee required would be the current issue fee amount and would not reflect any issue fee paid before the CPA was filed because the issue fee was paid in a prior application. Note that< because the amount of the **>fees(s)< due is determined by the fees set forth in 37 CFR 1.18 which are in effect as of the date of submission of payment of the **>fees(s)<, the amount due >at the time the fee(s) are paid< may differ from the amount indicated on the Notice of Allowance. Accordingly, applicants are encouraged, at the time of submitting payment of the **>fees(s)<, to determine whether the amount of the issue fee due **>or any required publication fee has changed to avoid the patent lapsing for failure to pay the balance of the issue fee due (37 CFR 1.317) or becoming abandoned for failure to pay the publication fee<. The amounts due under 35 U.S.C. 41(a) >(i.e., the issue fee, but not the publication fee)< are reduced by 50 per centum for small entities.

Applicants and their attorneys or agents are urged to use the **>Fee(s) Transmittal< form (PTOL-85B) provided with the Notice of Allowance when submitting their payments. **>Unless otherwise directed<, all post allowance correspondence should be addressed "*>Mail Stop< Issue Fee."

**>Where it is clear that an applicant actually intends to pay the issue fee and required publication fee, but the proper fee payment is not made, for example, an incorrect issue fee amount is supplied, or a PTOL-85B Fee(s) Transmittal form is filed without payment of the issue fee, a general authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct issue fee. 37 CFR 1.311(b). In addition, where the deposit account information is added to the Fee(s) Transmittal form (PTOL-85B), but the check box authorizing that the deposit account be charged the issue fee is not checked, the deposit account will still be charged the required issue fee and any required publication fee.<

Technology Center personnel should forward all post allowance correspondence to the **>Office of Initial Patent Examination (OIPE)<. The papers received by the **>OIPE will be scanned and< matched with the appropriate application and the entire application will be forwarded to the appropriate Technology Center for processing.

The payment of the issue fee due may be simplified by using a U.S. Patent and Trademark Office Deposit Account or a credit card payment with form PTO2038 for such a fee. See MPEP >§< 509. However, any such payment must be specifically authorized by reference to the "issue fee" or "fees due under 37 CFR 1.18."

The **>fee(s) due< will be accepted from the applicant, assignee, or a registered attorney or agent, either of record or under 37 CFR 1.34(a).

<u>The *>Director< has no authority to extend the time for paying the issue fee. Intentional failure to pay the issue fee within the 3 months permitted by 35 U.S.C. 151 does not amount to unavoidable or unintentional delay in making payment</u>. (Emphasis supplied.)

Clearly Petitioner cannot make a satisfactory showing as to unavoidable delay and his only alternative is to file a petition alleging unintentional delay, with fee, point to the reply formerly submitted in the form of fees due, and make the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7] And the Petitioner must be diligent in attending to the matter.[8] 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]))

---

[4] 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.

[5] 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.

[6] 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).

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

[8] 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.

[9] 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.

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.

Once again, Petitioner has failed to satisfy the "showing" requirement of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) hereby is **dismissed**.

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").

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.

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[10] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf.)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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.: 08-07

Paper No: __

DENNIS F. ARMIJO, ESQ.
DENNIS F. ARMIJO, P.C.
6300 MONTANO RD., NW, SUITE D
ALBUQUERQUE NM 87120

COPY MAILED
AUG 20 2007
OFFICE OF PETITIONS

In re Application of
Shahinpoor, et al. :
Application No. 09/899,874 :
Filing Date: 5 July, 2001
Attorney Docket No. 2313-00 :

This is a decision on the petition filed on 11 August, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b) (the matter previously was considered as an allegation of unavoidable delay under 37 C.F.R. §1.137(a)).

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 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 of Allowance/Allowability and Fees Due mailed on 10 November, 2004, with reply due under a non-extendable deadline on or before 10 February, 2005;

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- the application went abandoned after midnight 10 February, 2005;
- on 22 November, 2004, and 15 March, 2005, Petitioner filed a request for a correction of the title of the application from "A Method of Frabricating a Dry Electro-Active Polymeric Synthetic Muscle" to "A Method of Fabricating a Dry Electro-Active Polymeric Synthetic Muscle" (emphasis supplied), which requests appear–from the Office reply of 28 March, 2005–to have been mis-understood/mis-interpreted;
- however, this was resolved by the 12 April, 2005, Supplemental Notice of Allowability mailed by the Examiner to address the misspelling;
- the Office mailed the Notice of Abandonment on 14 April, 2005;
- Petitioner paid the Issue Fee on 28 April, 2005, at which time he also filed a request to withdraw the holding of abandonment, in which he averred that the Examiner instructed him to delay in payment of the Issue Fee until the correction was made by the Office–and the request to withdraw the holding of abandonment was dismissed on 10 October, 2005;
- 16 November, 2005, Petitioner filed the instant petition with fee, and averred once again that the Examiner instructed him over the telephone to delay in payment of the Issue Fee until the correction was made, and this was the basis of Petitioner's allegation of unavoidable delay, which petition was dismissed on 24 July, 2006;
- the instant petition seeks to overcome these deficiencies.

Petitioner, long a registered practitioner before the Office, should be aware that:

- all practice before the Office is in writing (under 37 C.F.R. §1.2[2]);
- moreover, once the Notice of Allowance/Allowability and Fees Due (the Notice) is mailed, in the absence of a written action withdrawing the Notice no one has the authority to instruct the Petitioner to await changes in a document before paying the Fees Due.[3]

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[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

[3] See: MPEP §1306, in pertinent parr:

1306 Issue Fee [R-2]

Petitioner was on the right track as he sought in writing from the Office a correction of the title misspelling, and, in fact, the Examiner ordered, via Supplemental Notice of Allowability, the correction at issue.

Petitioner appears to have satisfied the requirements under the regulation in that he has submitted the petition and fee, the reply in the form of the Issue Fee and other fees due, and the statement of unintentional delay in that Petitioner erroneously believed that he was to await, and so sought to await a change in the Notice of Allowance and Fees Due before replying with payment.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

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The issue fee *>and any required publication fee are< due 3 months from the date of the Notice of Allowance. The amount of the issue fee **>and any required publication fee are shown on the Notice of Allowance, which will reflect any issue fee previously paid in the application. For example, if the application was allowed and the issue fee paid, but applicant withdrew the application from issue and filed a Request for Continued Examination (RCE) and the application was later allowed, the Notice of Allowance will reflect an issue fee amount that is due that is the difference between the current issue fee amount and the issue fee that was previously paid. Had applicant filed a Continued Prosecution Application (CPA) instead of an RCE, the issue fee required would be the current issue fee amount and would not reflect any issue fee paid before the CPA was filed because the issue fee was paid in a prior application. Note that< because the amount of the **>fees(s)< due is determined by the fees set forth in 37 CFR 1.18 which are in effect as of the date of submission of payment of the **>fees(s)<, the amount due >at the time the fee(s) are paid< may differ from the amount indicated on the Notice of Allowance. Accordingly, applicants are encouraged, at the time of submitting payment of the **>fees(s)<, to determine whether the amount of the issue fee due **>or any required publication fee has changed to avoid the patent lapsing for failure to pay the balance of the issue fee due (37 CFR 1.317) or becoming abandoned for failure to pay the publication fee<. The amounts due under 35 U.S.C. 41(a) >(i.e., the issue fee, but not the publication fee)< are reduced by 50 per centum for small entities.

Applicants and their attorneys or agents are urged to use the **>Fee(s) Transmittal< form (PTOL-85B) provided with the Notice of Allowance when submitting their payments. **>Unless otherwise directed<, all post allowance correspondence should be addressed "*>Mail Stop< Issue Fee."

**>Where it is clear that an applicant actually intends to pay the issue fee and required publication fee, but the proper fee payment is not made, for example, an incorrect issue fee amount is supplied, or a PTOL-85B Fee(s) Transmittal form is filed without payment of the issue fee, a general authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct issue fee. 37 CFR 1.311(b). In addition, where the deposit account information is added to the Fee(s) Transmittal form (PTOL-85B), but the check box authorizing that the deposit account be charged the issue fee is not checked, the deposit account will still be charged the required issue fee and any required publication fee.<

Technology Center personnel should forward all post allowance correspondence to the **>Office of Initial Patent Examination (OIPE)<. The papers received by the **>OIPE will be scanned and< matched with the appropriate application and the entire application will be forwarded to the appropriate Technology Center for processing.

The payment of the issue fee due may be simplified by using a U.S. Patent and Trademark Office Deposit Account or a credit card payment with form PTO2038 for such a fee. See MPEP >§< 509. However, any such payment must be specifically authorized by reference to the "issue fee" or "fees due under 37 CFR 1.18."

The **>fee(s) due< will be accepted from the applicant, assignee, or a registered attorney or agent, either of record or under 37 CFR 1.34(a).

The *>Director< has no authority to extend the time for paying the issue fee. Intentional failure to pay the issue fee within the 3 months permitted by 35 U.S.C. 151 does not amount to unavoidable or unintentional delay in making payment. (Emphasis supplied.)

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7] And the Petitioner must be diligent in attending to the matter.[8] 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 requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional, a proper reply, and–where appropriate--a terminal disclaimer and fee.

As previously indicated, it appears that Petitioner has satisfied the requirements of the regulation.

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[4] 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.

[5] 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.

[6] 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).

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

[8] 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.

[9] 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.

CONCLUSION

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

The instant application is released to the Publications Branch to be processed into a patent 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[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE, CA 95157

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APR 2 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Illah Nourbakhsh et al.	:	
Application No. 09/899,895	:	DECISION ON PETITION
Filed: July 5, 2001	:	TO WITHFRAW
Attorney Docket No. 20191.707	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed February 10, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Courtney Stanford & Gregory LLP has been revoked by the assignee of the patent application on June 12, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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FEB 12 2010

In re Application of	:	
Hossein Mohsenzadeh	:	
Application No.: 09/899,905	:	ON PETITION
Filed: July 6, 2001	:	
Attorney Docket No.: 103171-0001	:	

This is a decision on the petition, filed February 9, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Stephen D. LeBarron appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **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 11, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3691 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PEARNE & GORDON
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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OFFICE OF PETITIONS

In re Application of	:	
Yoshimasa Honda et al	:	
Application No. 09/899,907	:	ON PETITION
Filed: July 5, 2001	:	
Attorney Docket No. 33782	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 3, 2006, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on November 29, 2005, with the issue fee being due on or before February 28, 2006. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of November 29, 2005, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP 706.07(h)(IX).

Inquiries concerning this decision may be directed to the undersigned at (572) 272-3208.

This matter is being referred to Technology Center AU 2613 for appropriate processing of the RCE filed February 3, 2006, and consideration of the IDS submitted concurrently therewith.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Joseph Marx et al :
Application No. 09/899,956 :
Filed: July 6, 2001 :
Attorney Docket No. 12177/50601 :

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed September 24 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 25, 2004.

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.

This file is being forwarded to the Publishing Division.

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

cc:

William E. Curry
Kenyon & Kenyon
1500 K Street, N.W., Suite 700
Washington, D.C. 20005

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 3/12/2009
Patent No.	: 7,477,556 B2
Serial No.	: 09/899,977
Inventor(s)	: Keeth et al.
Issue Date	: January13, 2009
Title	: **256 MEG DYNAMIC RANDOM ACCESS MEMORY**
Doc./File No.	: **DB000575-015**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in your request, inspection of the file of the application for the patent reveals that column 10, line 51, and column 12, line 21, in the patent, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

Furthermore, columns 10 and 12 contains the specification, and not the claims.

In view of the foregoing, your request in this matter is denied

However, further consideration will be given your request upon receipt of of a request for **Reconsieration** (w/supporting documentation) in this matter upon receipt of a copy of the 1449 or 892 with the requested reference(s) considered by the Examiner.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

JONES DAY
222 East 41st Street
New York NY 10017-6702

ECW

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3801

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FEB 13 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Takahiro Yajima et al
Application No. 09/900,043
Filed: July 9, 2001
Attorney Docket No. 03500.015541

This is a decision on the petition, filed February 10, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 18, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Daniel A. Rosenberg
Suite 2500
The Financial Center
666 Walnut Street
Des Moines, IA 50309

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AUG 1 8 2004
OFFICE OF PETITIONS

In re Application of
Sheabar and Stomp
Application No. 09/900,057
Filed: July 6, 2001
Attorney Docket No. 4532660/29930

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed July 6, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to file a proper reply to the final Office action mailed November 4, 2003, which set a statutory period for reply of three (3) months from its mailing date. An amendment was filed on January 7, 2004 (certificate of mailing dated January 5, 2004), however, the amendment failed to place the application in condition for allowance. The application became abandoned on May 5, 2004. See MPEP 706.07(f). A Notice of Abandonment was mailed on July 14, 2004.

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

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

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

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

The instant petition lacks item (1) above.

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

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

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

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

The standard

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

---

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

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

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

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

[7]Id.

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

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts the examiner did not receive the amendment filed January 7, 2004, until after the expiration of the statutory period for reply.

With regard to item (1) above, the examiner assigned to the application has determined that the amendment filed January 7, 2004, failed to place the application in condition for allowance. This decision was noted in an Advisory Action mailed June 1, 2004. A proper response to the final Office action must be filed before a petition under 37 CFR 1.137 can be considered grantable. A proper response would be either and amendment that places the application in condition for allowance, a Request for Continued Examination, or a Notice of Appeal.

Relative to petitioner's argument that the delay in responding to the final Office action was unavoidable because the amendment was not considered until after the expiration of the statutory period for reply, it may be argued that petitioner had an obligation to file a proper response to the final Office action before the expiration of the statutory period for reply notwithstanding the Office's apparent delay in considering the amendment. Certainly, the delay in the Office 's consideration of the amendment is regrettable, however; this delay did not relieve petitioner of the responsibility of filing a proper reply to the Final Office action within the allowed statutory period, whether that response be in the form of a Notice of Appeal, amendment and/or a Request for Continued Examination. Further, the delay in filing a proper response to the final Office action cannot be considered unavoidable because petitioner always had the option of filing a Request for Continued Examination to be considered in the alternative if the amendment filed January 7, 2004, failed to place the application in condition for allowance. The petition, is therefore, dismissed.

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

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

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

The petition under 37 CFR 1.78 filed January 7, 2004, is noted, however; the petition under 37 CFR 1.78 will not be considered until application is revived and returned to a pending status.

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

By mail: Mail Stop Petitions
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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DANIEL A. ROSENBERG
SUITE 2500
THE FINANCIAL CENTER
666 WALNUT STREET
DES MOINES, IA 50309

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OFFICE OF PETITIONS

In re Application of
Fayad Z. Sheabar et al
Application No. 09/900,057
Filed: July 6, 2001
Attorney Docket No. 4532660/29930

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2004, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.78(a)(3), filed January 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 09/900,555, filed July 6, 2001.

The petitions are **GRANTED.**

Discussion of Petition under 37 CFR 1.137(b)

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 4, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on January 7, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed June 1, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained, the above-identified application became abandoned on February 5, 2004.

The above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination (RCE)).

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.

Discussion of Petition under 37 CFR 1.78(a)(3)

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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 prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for 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 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 nonprovisional application, accompanies this decision on petition.

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

This matter is being referred to Technology Center Art Unit 1654 for processing of the RCE under 37 CFR 1.114 and for appropriate action on the amendment filed January 7, 2004, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEVIN S. LEMACK
NIELDS & LEMACK
176 E. MAIN STREET - SUITE 8
WESTBORO, MA 01581

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APR 21 2005
OFFICE OF PETITIONS

In re Application of
Barry J. BARCLAY
Application No. 09/900,064
Filed: July 6, 2001
Attorney Docket No. 545P007

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

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 13, 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 November 14, 2003. A Notice of Abandonment was mailed on March 23, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 13, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Betsy Deppe at (571) 272-6052 or in her absence, the undersigned at (571) 272-3217.

The matter is being referred to Technology Center AU 1616 for appropriate action on the concurrently filed amendment (and Information Disclosure Statement).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Daniel H. Golub
MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

COPY MAILED

MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Alan R. Kaufman	:	DECISION
Application No. 09/900,106	:	ON PETITION
Filed: July 6, 2001	:	37 CFR 1.137(b)
Attorney Docket No. 54432-5001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2004, to revive the above-identified application. The instant application became abandoned for failure to reply to the official action mailed May 7, 2003.

The petition is **GRANTED**.

Petitioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b).

The application file is being forwarded to Technology Center 3600 for further examination on the merrits.

Any questions concerning this matter may be directed to Ehud Gartenberg at (703) 305-4066 or, in his absence, to the undersigned at (703) 308-3865.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/31/09

TO SPE OF : ART UNIT 2192

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/900111 Patent No.: 6981250 B1

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

TUAN DAM
SUPERVISORY PATENT EXAMINER
SPE

2192
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
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Paper No. 4

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

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DEC 1 1 2001

OFFICE OF PETITIONS

In re Application of Skiadopoulos et al. Application No. 09/900,112 Filed: 5 July, 2001 Attorney Docket No. 015280-422100US	DECISION GRANTING PETITION

This is a decision on the petition filed on 26 September, 2001, requesting that the above identified application be accorded a filing date of 5 July, 2001, with 30 sheets of drawings as a part of the original disclosure.

The application was filed on 5 July, 2001. On 31 August, 2001, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings. Additionally, petitioner was informed that the oath or declaration, the abstract, and a Sequence Listing in compliance with 37 CFR 1.821-1.825 were required. A two (2)-month period for reply was set.

On 26 September, 2001, in response, *inter alia*, the present petition, a check for $130.00, and 30 sheets of drawings were filed. Petitioners argue that the 30 sheets of drawings were filed with the other application papers on 5 July, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 26 September, 2001. The postcard receipt shows an Office date stamp of 5 July, 2001, and the above-identified application number and acknowledges receipt of, *inter alia*, 30 sheets of drawings. Petitioners request that the application, including 30 sheets of drawings, be accorded a filing date of 5 July, 2001.

A review of the record reveals that no sheets of drawings are located among the application papers received on 5 July, 2001. However, the evidence is convincing that the application papers deposited on 5 July, 2001, included 30 sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including 30 sheets of drawings, is entitled to a filing date of 5 July, 2001.

The Notice of Incomplete Nonprovisional Application mailed on 31 August, 2001, was sent in error and is hereby vacated to the extent that it stated that the application had been deposited without drawings.

The petition is granted to the extent indicated above. The oath or declaration, abstract, and Sequence Listing in compliance with 37 CFR 1.821-1.825 are still required.

Applicant is given TWO MONTHS from the mailing date of this decision to file a signed oath/declaration, an abstract, and a Sequence Listing in compliance with 37 CFR 1.1.821-1.825. Applicant must provide a computer readable form (CRF) copy of the Sequence Listing, an initial paper or compact disc copy of the Sequence Listing as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing, and, where applicable includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). This time period may be extended pursuant to 37 CFR 1.136(a). **Failure to comply with these requirements will result in the abandonment of the application.**

Since the application was filed on 5 July, 2001, without a signed oath/declaration, the $130.00 surcharge set forth in 37 CFR 1.16(e) is required. The petition fee, which is unnecessary because the petition is due to USPTO error, will be credited towards the surcharge.

The application is being returned to the Office of Initial Patent Examination to await the response required above and for further processing with a filing date of 5 July, 2001.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 2, 2006

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction on Patent No.: 6,681,691

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. 703-308-9390 ext. 116

Please do not send this file to 9200

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 : 6,681,691 B2

DATED : January 27, 2004

INVENTOR(S) : David Joseph Foster and Anna Jane Harris

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

FACE OF THE PATENT

(63) Continuation of application No. 09/446,169, filed on Mar. 2, 2002, now abandoned, which is entitled to the July 11, 1997 filing date of PCT/GB97/01881.

MAILING ADDRESS OF SENDER:
Wall Marjama & Bilinski LLP
101 South Salina Street, 4th Floor
Syracuse, NY 13202
315-425-9000

PATENT NO. 6,681,691

No. of additional copies

⇨ _____

18 MAR 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Serial # 09/900127
Paper No.: _____

DATE : August 2, 2006

TO SPE OF : ART UNIT 2854

SUBJECT : Request for Certificate of Correction on Patent No.: 6,681,691

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
Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 116

Thank You For Your Assistance

Please do not send this file to 9200

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 filing date for parent application 09/446,169 as provided on Certificate of Correction is incorrect.

Judy Nguyen
JUDY NGUYEN
SUPERVISORY PATENT EXAMINER

SPE — 2854 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,681,691 B2

DATED : January 27, 2004

INVENTOR(S) : David Joseph Foster and Anna Jane Harris

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

FACE OF THE PATENT

(63) Continuation of application No. 09/446,169, filed on Mar. 2, 2002, now abandoned, which is entitled to the July 11, 1997 filing date of PCT/GB97/01881.

MAILING ADDRESS OF SENDER:
Wall Marjama & Bilinski LLP
101 South Salina Street, 4th Floor
Syracuse, NY 13202
315-425-9000

PATENT NO. 6,681,691

No. of additional copies

⇨ _____

18 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 09/900,160	:	DECISION ON PETITION
Filed: July 9, 2001	:	UNDER 37 C.F.R. §1.181
Attorney Docket No.: YU128US	:	
Title: INK JET PRINTHEAD THAT	:	
INCORPORATES AN ETCH STOP LAYER	:	

This is a decision on the petition filed June 24, 2002, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the period of delay in issuing this decision.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed November 7, 2001, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. §1.136(a) were received. Accordingly, the above-identified application became abandoned on December 8, 2002. A Notice of abandonment was mailed on May 20, 2002.

With the present petition, Petitioner has alleged that the mailing was not received. 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 attest to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, 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 MPEP 711.03(c).

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that it has been asserted that both the file jacket and the docket record have been searched, and a copy of the latter has been included.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will mail a new Restriction Requirement. The one-month extendable time period for electing an invention to be examined will be set to run from the mailing date of the Office action.

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

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

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NE

Mailed: 9/22/05

In re application of Brueckner et al. Serial No. 09/900,251 Filed: July 6, 2001 For: SPATIAL COORDINATION SYSTEM	:	DECISION ON PETITION

This is a response to the REQUEST FOR WITHDRAWAL OF ABANDONMENT filed March 9, 2005. The request asks that the abandonment, as set forth in the Notice of Abandonment of February 24, 2005, for failure to timely file a proper reply to the Office letter mailed July 9, 2004 be withdrawn since the applicants did timely file a reply on December 9, 2004.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the facts presented reveals that applicant's response, the paper entitled AMENDMENT, was properly filed on December 9, 2004 as evidenced by the properly completed Certificate of Mailing thereon. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed July 9, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing, and consideration of the AMENDMENT originally filed December 9, 2004.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

GIFFORD, KRASS, GROH PC
P O BOX 7021
Troy, MI 48007-7021

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OFFICE OF PETITIONS

In re Application of	:	
Joseph Min H. PARK	:	
Application No. 09/900,262	:	DECISION ON PETITION
Filed: July 7, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **2018-3-11**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 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 reply in a timely manner to the non-final Office action mailed, March 12, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 13, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the 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 4 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 June 13, 2004. 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). Statements are required from any and all person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

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

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents

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

By hand: U. S. Patent and Trademark Office

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **HARRY S. LEE**
LEE HONG DEGERMAN KANG & WAIMEY, PC
660 S. FIGUEROA STREET, SUITE 2300
LOS ANGELES, CA 90017

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OFFICE OF PETITIONS

LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET, Suite 2300
LOS ANGELES, CA 90017

In re Application of	:	
Joseph Min H. PARK	:	
Application No. 09/900,262	:	DECISION ON PETITION
Filed: July 7, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **2086-3-01**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 12, 2004 and Letter Restarting Shortened Statutory Period for Reply mailed April 14, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 16, 2004.

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 $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3763 for appropriate action by the Examiner in the normal course of business on the reply received January 29, 2009

Brian W. Brown
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Yabuta et al.	:	
Application No. 09/900,265	:	DECISION ON PETITION
Filed: July 6, 2001	:	
Attorney Docket No. JP920000193US1	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner pursuant to 37 CFR 41.50(a)(2) to the Supplemental Examiner's Answer mailed, May 22, 2008, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(b) were permitted. Accordingly, the application became abandoned on July 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 that prosecution be reopened before the examiner with a reply under 37 CFR 1.111, (2) the petition fee of $1540.00; and (3) an adequate statement of unintentional delay.

Also, 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. There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. 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 Christopher Bottorff at (571) 272-6692.

This application is being referred to Technology Center AU 3625 for appropriate action by the Examiner on the reply received July 24, 2008.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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In re Application of	:	
Tao Chen	:	DECISION ON PETITION
Application No. 09/900,272	:	UNDER 37 CFR 1.137(b)
Filed: July 6, 2001	:	
Attorney Docket No. PA 010368	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2006, to revive the above-identified application.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely and proper manner to the final Office action mailed September 26, 2005, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 27, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a Request for Continued Examination and a submission, paid the requisite fees, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

Petitioner submitted a request for an extension of time for response within the third month. 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). The $1,020.00 extension of time fee submitted on March 28, 2006, was subsequent to the maximum extendable period for reply. Therefore, the USPTO will be credited this amount to petitioner's deposit account.

This matter is being referred to Technology Center Art Unit 1253.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No: __

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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OFFICE OF PETITIONS

In re Application of
Wenegrat, et al. :
Application No. 09/900,306 :
Filing Date: 6 July, 2001
Attorney Docket No. 20040117.ORI :

This is a decision on the petition filed on 1 September, 2004, alleging 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 non-final Office action mailed on 7 November, 2003, with reply due absent extension of time on or before Monday, 9 February, 2004;
- the application was abandoned after midnight 7 February, 2004;
- the Office mailed the Notice of Abandonment on 19 May, 2004;

- Petitioner filed the instant petition (with fee), on 1 September, 2004, made the statement of unintentional delay, and submitted an amendment as the reply.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

showing/statement of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation

CONCLUSION

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

The application is released to Technology Center 2600 for further processing in due course.

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

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

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Lucash, Gesmer & Updegrove, LLP
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Suite 300
Boston, MA 02109

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Minh NGUYEN
Application No.: 09/900,397
Filed: July 6, 2001
For: TRANSACTIONAL CONTROL SYSTEM

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 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: Minh Nguyen
One Source Computer Corp.
119 Herbert Street
Framingham, MA 01701

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OFFICE OF PETITIONS

In re Application of :
Paul Raymond Matteau et al :
Application No. 09/900,420 : ON PETITION
Filed: July 6, 2001 :
Attorney Docket No. 027906-0221 :

This is a decision on the petition filed June 19, 2002, to accept the preliminary amendment as having been present on filing of the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181.

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

The application was deposited on July 6, 2001. However, on March 14, 2002, a Non-Final Office Action was mailed, which alerted petitioner that the preliminary amendment was omitted from the application on filing.

In response, on June 19, 2002, the present petition was filed. Petitioner argues that the preliminary amendment was included with the application papers deposited on July 6, 2001. As evidence thereof, petitioner submitted a copy of his postcard receipt which acknowledges receipt of a preliminary amendment on July 6, 2001. A copy of the preliminary amendment was also submitted.

A review of the application file shows no evidence of a preliminary amendment being present among the application papers.

MPEP 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, since the evidence support the fact that a patent application-continuation; drawing; check ($1238); declaration and power of attorney (copy); preliminary amendment; assignment (copy); and Form PTO No. 1449 (copy), were in fact present on filing.

It is noted that the copy of the preliminary amendment submitted June 19, 2002 reference prior Application No. 09/256,672.

Since the preliminary amendment cannot be located in the Office, the copy of the preliminary amendment supplied on June 19, 2002 will be used for processing and examination purposes.

This application is being returned to Technology Center Art Unit 3611 for appropriate consideration of the preliminary amendment.

Telephone inquiries 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

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 3 2003

UR
PAPER NO. 7

In re Application of Ali Rusta-Sellehy et al. Serial Number: 09900,469 Filed: July 09, 2001 For: CHEMICAL HYDRIDE HYDROGEN GENERATION SYSTEM AND AN ENERGY SYSTEM INCORPORATING THE SAME	: : : : : : : :	DECISION ON PETITION UNDER M.P.E.P. 708.02, VI

This is in response to the petition filed April 28, 2003, 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.**

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

Bereskin and Parr
40 King Street West, Box 401
Toronto, ON, M5H 3Y2
CANADA

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1660 LINCOLN STREET, SUITE 3050
DENVER CO 80264

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APR 1 2 2007

OFFICE OF PETITIONS

In re Application of :
Mikhail Ivanovich TRIFONOV et al. :
Application No. 09/900,479 :
Filed: July 6, 2001 :
Attorney Docket No. 197-007-USP :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2006, 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 June 20, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 21, 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 payment of the Issue Fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

Application No. 09/900,479

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to the Office of Patent Publication.

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

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OFFICE OF PETITIONS

In re Application of	:	
Cherkas et al.	:	DECISION ON PETITION
Application No. 09/900,485	:	
Filed: 6 July, 2001	:	
Atty Docket No. 16319-05452	:	

This is a decision on the petition, filed on 17 October, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 31 May, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 22 June, 2006, is enclosed herewith.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the 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.

The application is being referred to Technology Center Art Unit 3628 for examination in due course.

---

[1] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

cc: Robert R. Sachs
275 Battery Street, Suite 1400
San Francisco CA 94111

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. 18

DELTAGEN INC
1003 HAMILTON AVENUE
MENLO PARK, CA 94025

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SEP 25 2003

OFFICE OF PETITIONS

In re Application of :
Keith D. Allen et al :
Application No. 09/900,518 : ON PETITION
Filed: July 6, 2001 :
Attorney Docket No. R-716 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 5, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 6, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (**2**) above.

As to item (2), on September 15, 2003, the Office of Finance attempted to withdraw the money from Deposit Account No. 50-1271. Unfortunately, there were insufficient funds in the Deposit Account.

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

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

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

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

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

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

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

Wan Laymon

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

cc: KELLY l. QUAST
1031 BING STREET
SAN CARLOS, CA 94070

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. 23

DELTAGEN INC
1003 HAMILTON AVENUE
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

In re Application of :
Keith D. Allen et al :
Application No. 09/900,518 : ON PETITION
Filed: July 6, 2001 :
Attorney Docket No. R-716 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 20, 2003, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center AU 1636.

Wan Laymon
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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DEC 20 2004

Deltagen, Inc.
1031 Bing Street
San Carlos CA 94070

In re Application of: Allen et al. Serial No.: 09/900,519 Filed: July 6, 2001 Attorney Docket No.: R-615	: : : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on September 17, 2004, requesting withdrawal of the holding of abandonment of the above-identified application based on non-receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a first Office action, setting a three-month statutory time period for reply, to applicants on January 26, 2004. On September 9, 2004 the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that the Office action of January 26, 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 applicants never received the Office action. In view thereof, the Notice of Abandonment mailed September 9, 2004, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicants' petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Office action.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600

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Docket No. 00087CIP

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that the attached paper (along with any paper referred to as attached or enclosed therein) is being transmitted *by facsimile* to the United States Patent and Trademark Office, Fax. No. 1-571-273-8300, on November 23rd, 2009.

Elizabeth E. O'Neil
Name

Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Owner:	Cabot Specialty Fluids, Inc.	Examiner:	TUCKER, Philip J.
Name of Patentee:	Benton et al.	Group Art Unit:	1712
Patent No.:	7,211,550 B2	Confirmation No.:	3941
Grant Date:	May 1, 2007		
Application No.:	09/900,533		
Filed:	July 6, 2001		
For:	COMPOSITIONS FOR CONTROLLING SCALING AND COMPLETION FLUIDS		

Facsimile No. 1-571-273-8300
(Total Number of Pages, including this sheet: 38)

Office of Petitions
Box DAC
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Petition Under 37 CFR Section 1.183 to Correct Erroneous Assignee Information

November 23, 2009

Sir/Madam:

1. The undersigned, Attorney for Cabot Corporation and Cabot Specialty Fluids, Inc., hereby petitions the United States Patent and Trademark Office, for a Certificate of Correction to correct applicant's error in submitting the name and address of the assignee for printing on US Patent 7,211,550 B2.

11/25/2009 JVONG1 00000043 030060 7211550
01 FC:1811 100.00 DA

PAGE 1/38 * RCVD AT 11/23/2009 3:38:30 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:978 670 8027 * DURATION (mm-ss):06-38

11/25/2009 JVONG1 00000043 030060 7211550
02 FC:1462 400.00 DA

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2. On December 1, 2006, patentee Cabot Specialty Fluids, Inc., submitted an Issue Fee Transmittal (PTOL-85b) containing erroneous assignee information. The submitted Transmittal indicated the assignee was Cabot Corporation, when, in fact, the assignee was Cabot Specialty Fluids, Inc., a subsidiary of Cabot Corporation.

3. The correct name and address of the assignee are:

   Cabot Specialty Fluids, Inc.
   10001 Woodloch Forest Drive
   Suite 275
   The Woodlands, TX 77380

4. Attached is a copy of each Notice of Recordation for the nine (9) assignments filed in this case resulting in assignment of the patent to Cabot Specialty Fluids, Inc.

5. The petition fee of $400.00 and the Certificate of Correction fee of $100.00 may be charged to Deposit Account No. 03-0060.

6. The Office of Petitions is hereby authorized to charge any additional fees which may be required for this petition to Deposit Account Number 03-0060. Please credit any over-payment to Deposit Account Number 03-0060.

Respectfully submitted,

Dated: November 23, 2009

Mary E. Porter
Reg. No. 33,440
Attorney for Assignee
Cabot Corporation
Law Department
157 Concord Road
Billerica, MA 01821
Tel. No. (978) 670-6198
Fax No. (978) 670-8027

Customer No. 65672

00087CTP_Petition Under 1-183 Post Issue.DOC

PAGE 2/38 * RCVD AT 11/23/2009 3:38:30 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:978 670 8027 * DURATION (mm-ss):06-38

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

700422473A

NOVEMBER 10, 2009

PTAS

MARY E. PORTER
LAW DEPARTMENT
CABOT CORPORATION
157 CONCORD ROAD
BILLERICA, MASSACHUSETTS 01821

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 11/09/2009 REEL/FRAME: 023492/0922
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 00087CIP

ASSIGNOR:
MAGRI, NEAL F. DOC DATE: 06/22/2001

ASSIGNOR:
PELLETTER, MICHAEL T. DOC DATE: 06/22/2001

ASSIGNEE:
HALLIBURTON ENERGY SERVICES, INC.
6700 PORTWEST DRIVE
HOUSTON, TEXAS 77024-8005

SERIAL NUMBER: 60229691 FILING DATE: 09/01/2000
PATENT NUMBER: ISSUE DATE:
TITLE: COMPLETION FLUIDS CONTAINING AN ALKALI METAL FORMATE

Recd By On 11/11/2009

P.O. Box 1450, Alexandria, Virginia 22313-1450 - www.USPTO.gov

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023492/0922 PAGE 2

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ASSIGNMENT SERVICES BRANCH
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OMB No. 0651-0027 (exp. 11/30/2008)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Docket No. 00087CIP

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To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new addresses(es) below.

1. Name of conveying party(ies):
NEAL F. MAGRI
MICHAEL T. PELLETIER

Additional name(s) of conveying party(ies) attached? No

2. Name and address of receiving party(ies):
Halliburton Energy Services, Inc.
Internal Address:
Street Address: 6700 Portwest Drive
City: Houston State: TX Zip: 77024-8005
Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of Conveyance/Execution Date(s):
☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other
Execution Date(s): June 22, 2001 and June 22, 2001

4. Application number(s) or patent number(s):
If this document is being filed together with a new application, the execution date of the application is:
A. Patent Application No.(s)
60/229,691 filed on September 1, 2000
Additional numbers attached? ☐ Yes ☒ No
B. Patent No.(s)
7,211,550 granted on May 1, 2007
Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: Mary E. Porter
Internal Address: Law Department
Street Address: Cabot Corporation
157 Concord Road
City: Billerica
State: Massachusetts Zip: 01821
Tel. No.: (978) 670-6198
Fax No.: (978) 670-8027
Email Address: Mary_Porter@cabot-corp.com

6. Total Number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h) & 3.41): $ 40.00
☒ Authorized to be charged to deposit account
☐ Enclosed

8. Payment Information
Deposit Account Number: 03-0060
Authorized User Name: Mary E. Porter
☐ Duplicate Copy of this cover sheet is attached.

9. Statement and signature:
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Mary E. Porter
Name of Person Signing
Reg. No. 33,440

Mary E. Porter
Signature

October 23, 2009
Date

Total number of pages including cover sheet, attachments and documents: 3

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Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

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	Company:	LAW DEPARTMENT
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	Voice Phone:	
From:	Name:	ASSIGNMENT SERVICES BRANCH
	Voice Phone:	571-272-3350

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OCTOBER 29, 2009

PTAS

MARY E. PORTER
LAW DEPARTMENT
CABOT CORPORATION
157 CONCORD ROAD
BILLERICA, MA 01821

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RECORDATION DATE: 10/29/2009 REEL/FRAME: 023443/0624
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 00087CIP

ASSIGNOR:
HALLIBURTON ENERGY SERVICES, INC. DOC DATE: 06/22/2001

ASSIGNEE:
CABOT SPECIALTY FLUIDS, INC.
25025 I-45N
SUITE 385
THE WOODLANDS, TEXAS 77380

SERIAL NUMBER: 60252200 FILING DATE: 11/21/2000
PATENT NUMBER: ISSUE DATE:
TITLE: COMPLETION FLUIDS CONTAINING AN ALKALI METAL FORMATE AND AN ACID

PAGE 8/38 * RCVD AT 11/23/2009 3:38:30 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:978 670 8027 * DURATION (mm-ss):06-38

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O:MARY E. PORTER COMPANY LAW DEPARTMENT

023443/0624 PAGE 2

SHIRLIE SIMON, EXAMINER
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

PAGE 9/38 * RCVD AT 11/23/2009 3:38:30 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:978 670 8027 * DURATION (mm-ss):06-38

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FORM PTO-1595 (Rev. 10-08) Modified
OMB No. 0651-0027 (exp. 11/30/2008)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Docket No. 00087CIP

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PATENTS ONLY

To the Director of the U.S. Patent and Trademark Office. Please record the attached documents or the new addresses(es) below.

1. Name of conveying party(ies):
HALLIBURTON ENERGY SERVICES, INC.

Additional name(s) of conveying party(ies) attached? No

2. Name and address of receiving party(ies):
Cabot Specialty Fluids, Inc.

Internal Address:

Street Address: 25025 I-45N
Suite 385

City: The Woodlands State: TX Zip: 77380

Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of Conveyance/Execution Date(s):

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other

Execution Date(s): June 22, 2001

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)
60/252,200 filed on November 21, 2000

Additional numbers attached? ☐ Yes ☒ No

B. Patent No.(s)
7,211,550 granted on May 1, 2007

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Mary E. Porter
Internal Address: Law Department
Street Address: Cabot Corporation
157 Concord Road
City: Billerica
State: Massachusetts Zip: 01821
Tel. No.: (978) 670-6198
Fax No.: (978) 670-8027
Email Address: Mary_Porter@cabot-corp.com

6. Total Number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h) & 3.41): $ 40.00

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☐ Enclosed

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Mary E. Porter
Name of Person Signing
Reg. No. 33,440

Signature

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700421649A

OCTOBER 29, 2009

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MARY E. PORTER
LAW DEPARTMENT
CABOT CORPORATION
157 CONCORD ROAD
BILLERICA, VA 01821

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RECORDATION DATE: 10/29/2009 REEL/FRAME: 023442/0398
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 00087CIP

ASSIGNOR:
HALLIBURTON ENERGY SERVICES, INC. DOC DATE: 06/22/2001

ASSIGNEE:
CABOT SPECIALTY FLUIDS, INC.
25025 I-45N
SUITE 385
THE WOODLANDS, TEXAS 77380

SERIAL NUMBER: 60218382 FILING DATE: 07/14/2000
PATENT NUMBER: ISSUE DATE:
TITLE: COMPOSITIONS FOR CONTROLLING SCALING INCLUDING ALKALI EARTH METAL SULFATES

PAGE 12/38 * RCVD AT 11/23/2009 3:38:30 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:978 670 8027 * DURATION (mm-ss):06-38

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FORM PTO-1595 (Rev. 10-03) Modified
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HALLIBURTON ENERGY SERVICES, INC.

Additional name(s) of conveying party(ies) attached? No

2. Name and address of receiving party(ies):
Cabot Specialty Fluids, Inc.

Internal Address:

Street Address: 25025 I-45N
Suite 385

City: The Woodlands State: TX Zip: 77380

Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of Conveyance/Execution Date(s):

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other

Execution Date(s): June 22, 2001

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)
60/218,382 filed on July 14, 2000

Additional numbers attached? ☐ Yes ☒ No

B. Patent No.(s)
7,211,550 granted on May 1, 2007

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Mary E. Porter
Internal Address: Law Department
Street Address: Cabot Corporation
157 Concord Road
City: Billerica
State: Massachusetts Zip: 01821
Tel. No.: (978) 670-6198
Fax No.: (978) 670-8027
Email Address: Mary_Porter@cabot-corp.com

6. Total Number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h) & 3.41): $ 40.00
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8. Payment Information
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Mary E. Porter
Name of Person Signing
Reg. No. 33,440

Mary E. Porter
Signature

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Date

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MARY E. PORTER
LAW DEPARTMENT
CABOT CORPORATION
157 CONCORD ROAD
BILLERICA, MASSACHUSETTS 01821

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RECORDATION DATE: 10/28/2009 REEL/FRAME: 023440/0326
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
MAGRI, NEAL F. DOC DATE: 06/22/2001

ASSIGNEE:
HALLIBURTON ENERGY SERVICES, INC.
6700 PORTWEST DRIVE
HOUSTON, TEXAS 77024-8005

SERIAL NUMBER: 60218382 FILING DATE: 07/14/2000
PATENT NUMBER: ISSUE DATE:
TITLE: COMPOSITIONS FOR CONTROLLING SCALING INCLUDING ALKALI EARTH METAL SULFATES

PAGE 16/38 * RCVD AT 11/23/2009 3:38:30 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:978 670 8027 * DURATION (mm-ss):06-38

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OMB No. 0651-0027 (exp. 11/30/2008)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Docket No. 00087CIP

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1. Name of conveying party(ies):
NEAL F. MAGRI

Additional name(s) of conveying party(ies) attached? No

2. Name and address of receiving party(ies):
Halliburton Energy Services, Inc.

Internal Address:

Street Address: 6700 Portwest Drive

City: Houston State: TX Zip: 77024-8005

Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of Conveyance/Execution Date(s):

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other

Execution Date(s): June 22, 2001

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)
60/218,382 filed on July 14, 2000

Additional numbers attached? ☐ Yes ☒ No

B. Patent No.(s)
7,211,550 granted on May 1, 2007

Additional numbers attached? ☐ Yes ☒ No

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Street Address: Cabot Corporation
157 Concord Road
City: Billerica
State: Massachusetts Zip: 01821
Tel. No.: (978) 670-6198
Fax No.: (978) 670-8027
Email Address: Mary_Porter@cabot-corp.com

6. Total Number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h) & 3.41): $ 40.00
☒ Authorized to be charged to deposit account
☐ Enclosed

8. Payment Information
Deposit Account Number: 03-0060
Authorized User Name: Mary E. Porter
☐ Duplicate Copy of this cover sheet is attached.

9. Statement and signature:

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Mary E. Porter
Name of Person Signing
Reg. No. 33,440

Mary E. Porter
Signature

October 28, 2009
Date

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LAW DEPARTMENT
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157 CONCORD ROAD
BILLERICA, MA 01821

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RECORDATION DATE: 10/28/2009 REEL/FRAME: 023438/0252
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 00087CIP

ASSIGNOR:
MAGRI, NEAL F. DOC DATE: 06/22/2001

ASSIGNEE:
HALLIBURTON ENERGY SERVICES, INC.
6700 PORTWEST DRIVE
HOUSTON, TEXAS 77024-8005

SERIAL NUMBER: 09900533 FILING DATE: 07/06/2001
PATENT NUMBER: 7211550 ISSUE DATE: 05/01/2007
TITLE: COMPOSITIONS FOR CONTROLLING SCALING AND COMPLETION FLUIDS

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City: Houston State: TX Zip: 77024-8005

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Execution Date(s): June 22, 2001

4. Application number(s) or patent number(s):

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A. Patent Application No.(s)
60/252,200 filed on November 21, 2000

Additional numbers attached? ☐ Yes ☒ No

B. Patent No.(s)
7,211,550 granted on May 1, 2007

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Internal Address: Law Department
Street Address: Cabot Corporation
157 Concord Road
City: Billerica
State: Massachusetts Zip: 01821
Tel. No.: (978) 670-6198
Fax No.: (978) 670-8027
Email Address: Mary.Porter@cabot-corp.com

6. Total Number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h) & 3.41): $ 40.00
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Mary E. Porter
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Reg. No. 33,440

Mary E. Porter
Signature

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LAW DEPARTMENT
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RECORDATION DATE: 10/29/2009 REEL/FRAME: 023438/0331
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 00087CIP

ASSIGNOR:
HALLIBURTON ENERGY SERVICES, INC. DOC DATE: 06/22/2001

ASSIGNEE:
CABOT SPECIALTY FLUIDS, INC.
25025 I-45N
SUITE 385
THE WOODLANDS, TEXAS 77380

SERIAL NUMBER: 09900533 FILING DATE: 07/06/2001
PATENT NUMBER: 7211550 ISSUE DATE: 05/01/2007
TITLE: COMPOSITIONS FOR CONTROLLING SCALING AND COMPLETION FLUIDS

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Suite 385

City: The Woodlands State: TX Zip: 77380

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Mary E. Porter — Mary E Porter — October 28, 2009
Name of Person Signing — *Signature* — *Date*
Reg. No. 33,440

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	Company:	LAW DEPARTMENT
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	Voice Phone:	
From:	Name:	ASSIGNMENT SERVICES BRANCH
	Voice Phone:	571-272-3350

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OCTOBER 29, 2009

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MARY E. PORTER
LAW DEPARTMENT
CABOT CORPORATION
157 CONCORD ROAD
BILLERICA, MASSACHUSETTS 01821

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RECORDATION DATE: 10/29/2009 REEL/FRAME: 023438/0328
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 00087CIP

ASSIGNOR:
VON KROSIGK, JAMES R. DOC DATE: 06/30/2001

ASSIGNEE:
CABOT SPECIALTY FLUIDS, INC.
25025 I-45N, SUITE 385
THE WOODLANDS, TEXAS 77380

SERIAL NUMBER: 09900533 FILING DATE: 07/06/2001
PATENT NUMBER: 7211550 ISSUE DATE: 05/01/2007
TITLE: COMPOSITIONS FOR CONTROLLING SCALING AND COMPLETION FLUIDS

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ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

10/29/2009
700421641

FORM PTO-1595 (Rev. 10-03) Modified
OMB No. 0651-0027 (exp. 11/30/2005)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Docket No. 00087CIP

RECORDATION FORM COVER SHEET
PATENTS ONLY

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new addresses(es) below.

1. Name of conveying party(ies):
JAMES R. VON KROSIGK

Additional name(s) of conveying party(ies) attached? No

2. Name and address of receiving party(ies):
Cabot Specialty Fluids, Inc.

Internal Address:

Street Address: 25025 I-45N
Suite 385

City: The Woodlands State: TX Zip: 77380

Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of Conveyance/Execution Date(s):

☒ Assignment ☐ Merger
☐ Security Agreement ☒ Change of Name
☐ Other

Execution Date(s): June 30, 2001

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)
60/252,200 filed on November 21, 2000

Additional numbers attached? ☐ Yes ☒ No

B. Patent No.(s)
7,211,550 granted on May 1, 2007

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Mary E. Porter
Internal Address: Law Department
Street Address: Cabot Corporation
157 Concord Road
City: Billerica
State: Massachusetts Zip: 01821
Tel. No.: (978) 670-6198
Fax No.: (978) 670-8027
Email Address: Mary_Porter@cabot-corp.com

6. Total Number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h) & 3.41): $ 40.00
☒ Authorized to be charged to deposit account
☐ Enclosed

8. Payment Information
Deposit Account Number: 03-0060
Authorized User Name: Mary E. Porter
☐ Duplicate Copy of this cover sheet is attached.

9. Statement and signature:

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Mary E. Porter
Name of Person Signing
Reg. No. 33,440

Mary E. Porter
Signature

October 28, 2009
Date

Total number of pages including cover sheet, attachments and documents: 3

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UNITED STATES PATENT AND TRADEMARK OFFICE

Facsimile Transmission

To:	Name:	MARY E. PORTER
	Company:	LAW DEPARTMENT
	Fax Number:	19786708027
	Voice Phone:	
From:	Name:	ASSIGNMENT SERVICES BRANCH
	Voice Phone:	571-272-3350

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

Pg#	Description
1	Cover Page
2	18.TXT
4	Document 1, Batch 1833077

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Date and time of transmission: Friday, October 30, 2009 3:45:50 PM
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O:MARY E. PORTER COMPANY LAW DEPARTMENT

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

70042177OA

OCTOBER 30, 2009

PTAS

MARY E. PORTER
LAW DEPARTMENT
CABOT CORPORATON
157 CONCORD ROAD
BILLERICA, MA 01821

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 10/30/2009 REEL/FRAME: 023438/0832
NUMBER OF PAGES: 2

BRIEF: CHANGE OF ASSIGNEE ADDRESS
DOCKET NUMBER: 00087CIP

ASSIGNOR:
CABOT SPECIALTY FLUIDS, INC. DOC DATE: 07/10/2001

ASSIGNEE:
CABOT SPECIALTY FLUIDS, INC.
10001 WOODLOCH FOREST DRIVE, SUITE 275
WATERWAY PLAZA TWO
THE WOODLANDS, TEXAS 77380

SERIAL NUMBER: 09900533 FILING DATE: 07/06/2001
PATENT NUMBER: 7211550 ISSUE DATE: 05/01/2007
TITLE: COMPOSITIONS FOR CONTROLLING SCALING AND COMPLETION FLUIDS

PAGE 32/38 * RCVD AT 11/23/2009 3:38:30 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/32 * DNIS:2738300 * CSID:978 670 8027 * DURATION (mm-ss):06-38

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O:MARY E. PORTER COMPANY LAW DEPARTMENT

023438/0832 PAGE 2

JEEVON JONES, EXAMINER
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

10/30/2009
700421770

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FORM PTO-1595 (Rev. 10-98) Modified
OMB No. 0651-0027 (exp. 11/30/2008)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Docket No. 00087CIP

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1. Name of conveying party(ies):
CABOT SPECIALTY FLUIDS, INC.

Additional name(s) of conveying party(ies) attached? No

2. Name and address of receiving party(ies):
Cabot Specialty Fluids, Inc.
Internal Address:
Street Address: Waterway Plaza Two
10001 Woodloch Forest Drive, Suite 275
City: The Woodlands State: TX Zip: 77380
Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of Conveyance/Execution Date(s):
☐ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☒ OTHER CHANGE OF ASSIGNEE ADDRESS
Execution Date(s): JULY 10, 2001

4. Application number(s) or patent number(s):
If this document is being filed together with a new application, the execution date of the application is:
A. Patent Application No.(s)
Additional numbers attached? ☐ Yes ☒ No
B. Patent No.(s)
7,211,550 granted on May 1, 2007
Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: Mary E. Porter
Internal Address: Law Department
Street Address: Cabot Corporation
157 Concord Road
City: Billerica
State: Massachusetts Zip: 01821
Tel. No.: (978) 670-6198
Fax No.: (978) 670-8027
Email Address: Mary_Porter@cabot-corp.com

6. Total Number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h) & 3.41): $ 40.00
☒ Authorized to be charged to deposit account
☐ Enclosed

8. Payment Information
Deposit Account Number: 03-0860
Authorized User Name: Mary E. Porter
☐ Duplicate Copy of this cover sheet is attached.

9. Statement and signature:
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Mary E. Porter — Mary E. Porter — October 28, 2009
Name of Person Signing — *Signature* — *Date*
Reg. No. 33,440

Total number of pages including cover sheet, attachments and documents: 2

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Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

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000087CIP

Facsimile Transmission

This company uses RightFAX® fax server software from RightFAX, Inc.

From:
Name: USPTO ASSIGNMENT DIVISION
Fax Number:
Voice Phone: 703-308-9723

To:
Name: CABOT CORPORATION
Company: MARTHA ANN FINNEGAN
Fax Number: 19786708027
Voice Phone:

Fax Notes:

Pg#	Description
1	Cover Page
2	58.TXT
4	Document 1, Batch 379768

PTAS FAX PROCESSING

Date and time of transmission: Wednesday, November 10, 2004 2:01:20 PM
Number of pages including this cover sheet: 04

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

NOVEMBER 10, 2004

PTAS

700129209A

CABOT CORPORATION
MARTHA ANN FINNEGAN
LAW DEPARTMENT
157 CONCORD ROAD
BILLERICA, MA 01821

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

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PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 11/05/2004

REEL/FRAME: 015347/0337
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 00087CIP

ASSIGNOR:
BENTON, WILLIAM J.

DOC DATE: 12/04/2001

ASSIGNEE:
CABOT SPECIALTY FLUIDS, INC.
WATERWAY PLAZA TWO
10001 WOODLOCH FOREST DR., SUITE 275
THE WOODLANDS, TEXAS 77380

SERIAL NUMBER: 09900533
PATENT NUMBER:

FILING DATE: 07/06/2001
ISSUE DATE:

TITLE: COMPOSITIONS FOR CONTROLLING SCALING AND COMPLETION FLUIDS

Best Available Copy

015347/0337 PAGE 2

MARCUS KIRK, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

Form PTO-1595

11/05/2004
700129209

U.S. DEPARTMENT OF COMMERCE
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Docket No. 00037CIP

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To the Honorable Commissioner of Patents and Trademarks. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):
William J. Benton

Additional name(s) of conveying party(ies) attached? No

3. Nature of Conveyance:

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other

Execution Date(s):
04 December 2001

2. Name and address of receiving party(ies):

Name: Cabot Specialty Fluids, Inc.

Internal Address:

Street Address: Waterway Plaza Two
10001 Woodloch Forest Dr., Suite 275

City: The Woodlands State: TX ZIP 77380

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)
09/900,533

Additional numbers attached? ☐ Yes ☒ No

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Martha Ann Finnegan
Internal Address: Law Department

Street Address: Cabot Corporation
157 Concord Road

City: Billerica State MA ZIP 01821

Total Number of applications and patents involved: 1

Total fee (37 CFR 3.41): $ 40.00
☐ Enclosed
☒ Authorized to be charged to deposit account

8. Deposit Account Number: 03-0060
☒ Duplicate Copy of this page is attached.

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Martha Ann Finnegan
Name of Person Signing, Reg. 31,453

Signature

5 Nov 2004
Date

Total number of pages including cover sheet: 3

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Alexandria, VA 22313-1450

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify this paper (along with any document or paper referred to herein) is being facsimile transmitted to the United States Patent And Trademark Office on the date indicated below, to (703) 306-5995.

Martha Ann Finnegan

5 Nov 2004
Date

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project. (0651-0011), Washington, D.C. 20503.

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

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SEP 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Fisher et al.	:	
Application No. 09/900,535	:	ON PETITION
Filed: July 6, 2001	:	
Attorney Docket No. 100UM-011A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 3, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Robert S. Daley	: DECISION ON REQUEST FOR
Patent Number	: 7590143	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/900,559	: 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 **1534** 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 5

JOSEPH W. MOTT
JENNINGS STROUSS & SALMON PLC
201 EAST WASHINGTON STREET
11TH FLOOR
PHOENIX, AZ 85004-2385

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APR 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Charles Winslow :
Application No. 09/900,581 : ON PETITION
Filed: July 5, 2001 :
Attorney Docket No. 52857-1 :

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

The petition is **GRANTED**.

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 24, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 25, 2001.

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

The application file is being forwarded to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 9-22-06

Patent No.: H2091 H
Patent Issued : December 2, 2003
Inventor(s) : Timothy Alan Scavone, et. al.
Title: OVEN-BAKED FRENCH FRIES HAVING EXTENDED HOLD TIME
Docket No.: 40097-Simplot

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

There is no provision in the Statues for the issuance of Certificate of Correction for Statutory Invention Registrations, Sections 254 and 255 of Title 35, specifically, provides for the issuance of certificates of correction to correct mistakes that occur in patents.

In view of the foregoing, your request in this matter is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Stuart O. Lowry
Kelly Lowry & Kelly, LLP
6320 Canoga Avenue, Suite 1650
Woodland Hills, CA 91367

ej

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.
09/900,596	07/06/2001	Vincent Pavis	INT089.10001	4105

41716 7590 07/09/2009
JOHN F. LETCHFORD
ARCHER & GREINER, P.C.
ONE CENENNIAL SQUARE
HADDONFIELD, NJ 08033

EXAMINER
HOLT, ANDRIAE M

ART UNIT	PAPER NUMBER
1616	

MAIL DATE	DELIVERY MODE
07/09/2009	PAPER

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

The time period for reply, if any, is set in the attached communication.

Archer & Greiner
A Professional Corporation
One Centennial Square
P.O. Box 3000
Haddonfield, NJ 08033-0968

In re Patent No.	7,005,133	:
Issue Date:	February 28, 2006	:
Serial No.	09/900,596	:
Filed:	July 6, 2001	:
For:	COMPOSITION AND PROCESS	:
FOR TREATING POLLUTION		:

This is a decision on the Petition, filed December 12, 2007, to Correct Inventorship under 37 CFR 1.324.

The Petition is GRANTED.

The patented file is being forwarded to Certificates of Corrections Branch for issuance of the certificate naming only the actual inventor or inventors.

/Johann R. Richter/
Supervisory Patent Examiner, Art Unit 1616

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Biotechnology Law Group
c/o Portfolioip
P.O. Box 52050
Minneapolis, MN 55402

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JUN 0 9 2008

In re Application of Hofmann :
Application No. 09/900,601 : Decision on Petition
Filing Date: July 5, 2001 :
Attorney Docket No. GTI-1200-CT2 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2008, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

Facts:

The Office mailed a Notice of Allowance and a Notice of Allowability on May 26, 2004. The Notice of Allowance required the submission of the issue fee and publication fee within three months.

The Notices were returned undelivered to the USPTO on October 29, 2004. The file record fails to indicate the reason the Notices were not delivered.

The Office did not receive the issue fee or publication fee.

A Notice of Abandonment was mailed May 17, 2006.

Discussion:

A review of the record indicates the application was improperly held abandoned.

MPEP 707.13 states,

> Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. Upon receipt of the returned Office action, the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. If the

> Office action was not mailed to the correct correspondence address, it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter along with a copy of the Office action may be sent to the first named inventor or assignee (if available) informing him or her of the returned action. The time period for reply to the Office action will be restarted to run from the mailing date of the letter informing applicant of the returned action.
>
> 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 Office should have attempted to send a letter to the assignee or first named inventor and restarted the time period to respond. MPEP 707.13 states, "If the period dating from the remailing elapses with no communication from applicant, the application is abandoned." Since the Notice of Allowance was not remailed, the time period dating from the remailing of the Notice of Allowance has not expired and the application is not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(b) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the Office has scheduled a refund of the $770 petition fee.

The Office of Data Management will be informed of the instant decision and the application will be prepared for issuance 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

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

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Weaver, et al. :
Application No. 09/900,627 : ON PETITION
Filed: July 6, 2001 :
Attorney Docket No. D0018-NP :
For: ELECTROPHYSIOLOGY CONFIGURATION SUITABLE FOR HIGH THROUGHPUT SCREENING OF COMPOUNDS FOR DRUG DISCOVERY

This is a decision on the petition under 37 CFR 1.137(b), filed on April 17, 2006 to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action mailed February 22, 2005, which set an extendable three month period for reply. Applicants submitted an amendment after final on May 6, 2005 that failed to place this application in *prima facie* condition for allowance. Accordingly, this application became abandoned on May 23, 2005. A Notice of Abandonment was mailed on April 18, 2006.

Applicants have submitted a RCE and required fee and a request to use the previously filed amendment as the submission in reply to the February 22, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 22, 2005 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1641 for consideration of the RCE filed on April 17, 2006.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 15

STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, NW
SUITE 600
WASHINGTON DC 20005-3934

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JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Mark G. Gilbreth et al	:	
Application No. 09/900,635	:	ON PETITION
Filed: July 6, 2001	:	
Attorney Docket No. 2066.0240001	:	

This is a decision on the petition, filed by facsimile transmission on January 24, 2003[1], under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 11, 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.[2]

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

---

[1]Evidence has been provided to show that the original Petition, RCE and the IDS were received in the Patent and Trademark Office on December 24, 2002.

[2] 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.**

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2834 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APR 0 3 2003

Technology Center 2100

Paper No. 7

Workman Nydegger & Seeley
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of: Earl W. GOOD	)	
Application No. 09/900,694	)	
Filed: July 6, 2001	)	**DECISION ON REQUEST FOR**
For: SYSTEMS AND METHODS FOR	)	**WITHDRAWAL AS ATTORNEY**
CONTACT MANAGEMENT AND	)	
CAMPAIGN MANAGEMENT	)	

This is a decision on the Request To Withdraw from Representation filed March 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: R. Todd Fulks, BILL GOOD MARKETING, INC.
12393 S. Gateway Park Place
Suite 600
Draper, UT 84020

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL
PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

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OFFICE OF PETITIONS

In re Patent No. 7,085,734 :
Issue Date: 1 August, 2006 :
Application No. 09/900,706 : ON PETITION
Filed: 6 July, 2001 :
Attorney Docket No. OID06-47(0007) :

This is a decision on the petition filed on 23 April, 2008, under 37 C.F.R. §3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

The request is **GRANTED** upon the instant showing of the recordation of the assignment(s) on 8 June, 2006, and the location of recordation as Reel/Frame 017759/0305.

Petitioner requests issuance of a certificate of correction the identification of the Assignee to "**Oracle International Corporation, Redwood Shores, CA (US)**" of the substance and in the form of that submitted therewith.

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

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

In re Patent No. 7,085,734
Application No. 09/900,706

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[1]) 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

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[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JASON M. HONEYMAN
WOLF GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210

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SEP 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Roger E. Darois et al	:	
Application No. 09/900,707	:	ON PETITION
Filed: July 6, 2001	:	
Attorney Docket No. D0188/7126	:	

This is a decision on the petition under 37 CFR 1.313(c), filed September 28, 2005, which is being treated 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 23, 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 (571) 272-3220.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to

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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).

Technology Center AU 3732 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon

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

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United States Patent and Trademark Office
P.O. Box 1450
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DIW Sep-06

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Huang et al.	:	
Application No. 09/900,713	:	DECISION ON PETITION
Filed: 5 July, 2001	:	
Atty Docket No. 15436.249.30.1	:	
	:	

This is a decision on the petition filed on 7 July, 2006, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 21 December, 2003, for failure to timely and properly reply to the final Office action mailed 20 June, 2003, which set a three (3) month shortened statutory period for reply. On 20 December, 2003, a three (3)

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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)).

month extension to time under 37 CFR 1.136(a) and a Request for Continued Examination were filed. A final Office action was mailed on 16 January, 2004. On 28 June, 2006, however, a Notice of Abandonment was mailed, stating that the Office action mailed on 16 January, 2004, was vacated, and the application abandoned, because no submission under 37 CFR 1.114 had been timely filed with the RCE Request.

Petitioner states that the amendment filed on 16 March, 2004, is the required reply.

In accepting this petition, the Office is construing the amendment filed on 16 March, 2004, to be the submission required under 37 CFR 1.114 to the RCE filed on 20 December, 2003, and the RCE and submission to be the response to the final Office action mailed on 20 June, 2003.

This application is being referred to the Technology Center for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 14

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OFFICE OF PETITIONS

DELTAGEN, INC.
1003 Hamilton Avenue
Menlo Park, CA 94025

In re Application of
Allen et al.
Application No. 09/900,751
Filed: July 6, 2001
Attorney Docket No. R-386

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 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 February 11, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. A reply was submitted on July 11, 2003 with a request for a two month extension of time. However, due to insufficient funds in the deposit account the two month extension of time could not be obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on May 12, 2003. A Notice of Abandonment was mailed on September 23, 2003.

This petition is hereby **GRANTED**.

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.

A two (2) month extension of time was requested on with the instant petition. Petitioner was inadvertently charged twice for a 2 month extension of time. However, pursuant to 37 CFR 1.136, an extension of time 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) Petitioner's six (6) month statutory period expired on August 11, 2003. Petitioner is ineligible for any extensions of time. Accordingly, deposit account number 50-1271 will be credited with $420.00 for fees paid to acquire an extension of time.

This application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Kelly L. Quast
1031 Bing Street
San Carlos, CA 94070

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 19

Kelly L. Quast
Deltagen, Inc.
1003 Hamilton Avenue
Menlo Park, CA 94025

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DEC 15 2003

OFFICE OF PETITIONS

In re Application of :
Keith D. Allen et al. :
Application No. 09/900,754 :
Filed: July 6, 2001 :
Attorney Docket No. R-372 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 24, 2002, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 1, 2003.

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

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

The application file is being forwarded to Technology Center AU 1636 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Latrice Bond

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

cc: Deltagen, Inc.
700 Bay Road
Redwood City, CA 94063

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

FULBRIGHT & JAWORSKI
MELISSA W ACOSTA
SUITE 5100
1301 MCKINNEY
HOUSTON, TX 77010-3095

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FEB 28 2002

OFFICE OF PETITIONS

In re Application of	:	
Goran Forsberg et al	:	
Application No. 09/900,766	:	NOTICE
Filed: July 6, 2001	:	
Attorney Docket No. HO-P02188US0	:	

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 1642.

Wan Layton
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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SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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APR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Matthew Levine	:	
Application No. 09/900,787	:	DECISION
Filed: July 6, 2001	:	ON PETITION
For: CHART RECORDER PROGRAMMING	:	
INTERFACE	:	

This is a decision in response to the Request for Reconsideration of the Holding of Abandonment (MPEP § 711.03), filed September 6, 2005. The correspondence is properly treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181.

The petition is **dismissed.**

Background

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 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned as a result of a Decision by the Board of Patent Appeals and Interferences ("the Board"), mailed May 18, 2005. No claims were allowed.

Applicant filed an Amendment on July 21, 2005 (Certificate of Mailing dated July 18, 2005).

Applicant files the instant petition and asserts that the Amendment was a timely and proper reply to both the final Office action and the

Applicable Statute, Rules and MPEP

MPEP 1214.07 Reopening of Prosecution
37 CFR 1.198. Reopening after a final decision of the Board of Patent Appeals and Interferences.
When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown. Sometimes an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims. In view of the fact that prosecution is closed, the appellant is not entitled to have such amendment entered as a matter of right. However, if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application will be reopened and the amendment will be entered. See MPEP § 706.07(h), paragraph XI. Note that the RCE practice under 37 CFR 1.114 does not apply to utility or plant patent applications filed before June 8, 1995 or to design applications. See 37 CFR 1.114(d) and MPEP § 706.07(h), paragraph I. If the amendment obviously places an application in condition for allowance, regardless of whether the amendment is filed with an RCE, the primary examiner should recommend that the amendment be entered, and with the concurrence of the supervisory patent examiner, the amendment will be entered. Note MPEP § 1002.02(d). (Emphasis supplied)

A review of the Amendment by the Examiner reveals that the Amendment fails to place the application in condition for allowance.

Accordingly, the petition is dismissed.

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition

under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

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

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

Jackson & Co., LLP
Attn: Seong-Kun Oh
6114 LaSalle Avenue, #507
Oakland, CA 94611-2802

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OFFICE OF PETITIONS

In re Application of :
Erik J. Freed :
Application No. 09/900,842 :
Filed: July 7, 2001 :
Attorney Docket No. SH-02-100 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 Non-Provisional Application 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the extension of time submitted with the petition on May 28, 2002 was subsequent to the maximum extendable period for reply, no extension of time is necessary.

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

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

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL I. KROLL
ATTORNEY AT LAW
171 STILLWELL LANE
SYOSSET, NY 11791

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OCT 20 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Paul Elliott	:	
Application No. 09/900,923	:	
Filed: July 9, 2001	:	
Attorney Docket No. PE-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed March 13, 2003. A Notice of Abandonment was mailed on November 18, 2003.

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

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

The application file is being forwarded to Technology Center AU 3677, for further processing of the request for continued examination under 37 CFR 1.114 filed August 10, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed FEB 5 2002

Paper #4
UR

In re Application of
Jilene A. Repp et al.
Serial Number: 09/900,927
Filed: July 9, 2001
For: QUILTING METHOD AND SYSTEM

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

This is a decision on the Petition to Make Special because of Actual Infringement (37 C.F.R. 1.102 and MPEP 708.02) filed December 31, 2001, along with the requisite fee, in the above-noted application. The petition, with accompanying statement meet the requirements of Section 708.02 (II) of the MPEP.

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

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

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is GRANTED.

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

Eugene R. Sawall
Andrus, Sceales, Starke & Sawall, LLP
100 East Wisconsin Avenue, Suite 1100
Milwaukee, WI 53202

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FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE WI 53202-5308

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FEB 2 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Repp et al.	:	
Application No. 09/900,927	:	DECISION ON PETITION
Filed: 9 July, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1295-00044	:	

This is a decision on the petition filed on 4 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 prior-filed Application No. 09/521,810, filed on 9 March, 2000 (now U.S. Patent No. 6,261,397). This is also a decision on the petition to expedite the above-referenced petition, filed on 16 January, 2004.

The petition is **GRANTED**

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

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

[1]Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 9 July, 2001, and was copending with the above-noted, prior-filed nonprovisional application, at the time of filing, for which benefit is claimed. A reference to the above-noted, prior-filed applications has been included in an amendment under 37 CFR 1.312 to the first sentence of the specification following the title, which was filed on 17 October, 2003.

The present nonprovisional application was filed after 29 November, 2000, and the claim for benefit herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for benefit under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed Application No. 09/521,810 (which issued as U.S. Patent No. 6,261,397 on 17 July, 2001) is granted as of the date of filing the petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for

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specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

benefit of 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.

The claim of benefit has been entered in Office records, and a corrected filing receipt reflecting the subject claim of benefit is enclosed with this decision.

It is noted that the issue fee was received on 29 December, 2003.

Counsel's deposit account, No. 06-1447, has been charged the fee of $130.00 for the petition for expedited treatment.

The application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Charles A. Pearson
Director, Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

Applicant: Geurin-Marchand et al.
Appl. No.: 09/900,963
Filing Date: July 10, 2001
Title: PEPTIDE SEQUENCES SPECIFIC FOR THE HEPATIC STAGES OF P. FALCIPARUM BEARING EPITOPES CAPABLE OF STIMULATING THE T LYMPHOCYTES
Attorney Docket No.: 010830-118
Pub. No.: US 2003/0064075 A1
Pub. Date: April 3, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was on June 3, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains several typographical errors such as the misspelling of "peptide-sequence" for "peptide sequence" in claim 3 and typographical errors in the sequence listings in claim 8, line 5 and claim 12, line 16.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request does not identify a material mistake in the publication made by the Office:

The typographical errors identified by applicant are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). 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 misspelling of "peptide-sequence" for "peptide sequence" is minor typographical error which is clearly understandable from reading the sentence and/or paragraph in which the term is used, as the term is not read in a vacuum. It is also not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The two errors in the sequence listing in claims 8 and 12 are not material mistakes, as the errors

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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).

are typographical errors, the sequences were correctly written in the specification and the claims have been canceled. Since the specification was accurately published, thus one can read and understand the content of the application and if someone was confused by the error, it is clearly written in the specification. It is also not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or to determine the scope of the patent application publication or of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

It is noted that the application was filed with a preliminary amendment deleting claims 1-26 and adding new claims 27-37. Applicant is reminded that a continuation or divisional application under 37 CFR 1.53(b) may be filed with only new claims so that the continuation application may be published including the new claims.[2]

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[2] Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 Off. Gaz. Pat. Office Notices 54 (Oct. 9, 2001).

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United States Patent and Trademark Office
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(INCLUDING BURNS DOANE SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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OFFICE OF PETITIONS

In re Application of	:	
Claudine Guerin-Marchand et al	:	
Application No. 09/900,963	:	DECISION GRANTING PETITION
Filed: July 10, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 010830-118	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 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 27, 2004, which set a shortened statutory period for reply of one (1) month or thirty days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 28, 2004. A Notice of Abandonment was mailed on September 7, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final of July 27, 2004 is accepted as having been unintentionally delayed.

It is noted that an unsuccessful attempt to comply with the requirements 37 CFR 1.821 through 1.825 was made three times in this application. Accordingly, the granting of this petition is not an indication that the reply received with the petition to revive is now in compliance with the requirements of 37 CFR 1.821 through 1.825. However, a petition to revive may be granted if the submission appears to be a *bona fide* attempt to provide a complete reply to the last Office action. If the reply still does not comply with the requirements of 37 CFR 1.821 through 1.825, the Examiner may send out a communication giving a one (1) month shortened statutory period under 37 CFR 1.135(c) for

correction of the error or omission. If the applicant does not correct the omission within the time period set in the communication (including any extension), the application will again be abandoned.

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

This matter is being referred to Technology Center AU 1648 for appropriate action in the normal course of business on the reply received December 7, 2005.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WARNER NORCROSS & JUDD LLP
900 FIFTH THIRD CENTER
111 LYON STREET, N.W.
GRAND RAPIDS MI 49503-2487

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OFFICE OF PETITIONS

In re Application of	:	
Toshiya Uemura	:	
Application No. 09/900,980	:	DECISION GRANTING
Filed: July 10, 2001	:	PETITION
For: GROUP III NITRIDE COMPOUND SEMI-	:	
CONDUCTOR LIGHT-EMITTING DEVICE	:	

This is a decision on the "Petition under 37 CFR §1.181" filed on July 8, 2002 and the request filed on April 19, 2002, which are being treated together as a request that the Office action mailed on March 8, 2002 be vacated, and that the above-identified application be reprocessed using the specification and drawings identified on the application transmittal letter.

The petition is granted.

On July 10, 2001, the application was filed with two sets of papers titled "GROUP III NITRIDE COMPOUND SEMICONDUCTOR LIGHT-EMITTING DEVICE". One set contained the application papers for this application and the other set contained a copy of an earlier filed application having the same title. The earlier filed application was cited on the accompanying Information Disclosure Statement (IDS).

The specification and drawings copied from the earlier application were mistaken at the Office as the specification and drawings for this identically titled application. As a result, the wrong set of identically titled papers were processed as the application papers for this application. In turn, the Office action mailed on March 8, 2002 was based on an examination of the wrong set of identically titled papers.

In view of the above, the Office action mailed on March 8, 2002 is hereby vacated.

Believing that the application papers for this application were not present in the application file, on June 18, 2002, petitioner submitted a duplicate set of application papers for this application. As the originally filed application papers for this application are, in fact, present in the application file, the originally filed application papers for this application will be used hereafter for examination purposes.

The papers mistakenly processed as the application papers for this application will remain in the application file for the examiner's consideration as the earlier filed application cited in the above-mentioned IDS.

The application is being forwarded to the Office of Initial Patent Examination for:

(1) corrected processing with a filing date of July 10, 2001 using the set of application papers consisting of 21 pages of specification, 4 sheets of drawings and 1 page of abstract; and

(2) an indication in the bibliographic data for this application that four (4) sheets of drawings containing Figures 1-5 were present on filing.

Thereafter the application will be forwarded to Technology Center Art Unit 2813 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-5106.

James J. Engel
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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BARNES & THORNBURG, LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth S. Price, et. al.	:	
Application No. 09/900,989	:	ON PETITION
Filed: July 9, 2001	:	
Attorney Docket No. 41898-79395	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on April 2, 2007, to revive the above-identified application. The delay in responding is regretted.

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 slightly from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief and $500 fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3621, 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

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Paper No.

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

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OFFICE OF PETITIONS

In re Patent No. 7,119,996	:	
Hasegawa et al.	:	DECISION ON REQUEST
Issue Date: October 10, 2006	:	FOR
Application No. 09/900,992	:	RECONSIDERATION OF
Filed: July 9, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281-3995	:	
:		

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 31, 2006. Patentees request that the patent term adjustment as indicated by the PAIR PTA adjustment history (and on the face of the patent) be corrected from seven hundred fifteen (715) days to eight hundred twenty-three (823) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On October 10, 2006, the above-identified application matured into U.S. Patent No. 7,119,996. The instant request for reconsideration filed October 31, 2006 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of 715 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 1538 days on the basis

that the patent issued 3 years and 823 days after the date on which the application was filed.

It is agreed that the instant patent issued 3 years and 823 days after its filing date. However, § 1.703(b)(1) provides, in pertinent part that:

> the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) … and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

Thus, the filing of a request for continued examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment.

In this instance, a RCE was filed on January 25, 2006. Thus, the ability to accumulate additional patent term adjustment against the three-year pendency provision ended January 25, 2006. Accordingly, the period of adjustment under § 1.702(b) is 565 days, counting the number of days beginning on July 10, 2004 and ending on January 25, 2006.

Moreover, if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions;

Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the periods of delay totalling 761 days attributable to grounds specified in § 1.702(a)(1) and (2) overlap with the 565 days attributable to the delay in the issuance of the patent. Thus, the period of adjustment cannot exceed the actual number of days of delay of 761 days.

In view thereof, the patent properly issued with a patent term adjustment of 715 days (761 days of Office delay reduced by 46 days of Applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

101050.02
EDM

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.___

In re application of
Satoru Miyashita et al
Serial No. 09/901,097
Filed: July 10, 2001
For: METHOD OF MANUFACTURING ORGANIC EL ELEMENT, ORGANIC EL ELEMENT, AND ORGANIC EL DISPLAY DEVICE

DECISION ON PETITION

This is a decision on the PETITION FOR CONSOLIDATION OF THREE INTERFERENCES, filed February 27, 2002. Petitioner has submitted a Request for Declaration of Interference in the present application requesting that an Interference be declared between the present application and U.S. Patent 6,087,196 to Sturm et al. A Request for Declaration of Interference with U.S. Patent 6,087,196 to Sturm et al has also been submitted in commonly owned applications, Serial Numbers 09/901,095 and 09/901,126. Petitioner requests that these three requested interference proceedings be consolidated, and that a single interference be declared between the three commonly owned applications and U.S. Patent 6,087,196 to Sturm et al.

DECISION

37 CFR § 1.606 requires that the "application must contain, or be amended to contain, at least one claim that is patentable over the prior art and corresponds to the count". A review of the file history of the present application, however, shows that the present application has not yet been acted upon by the examiner. Thus, the examiner has not determined if at least one of the applicant's claims to that invention are patentable to the applicant as required by MPEP 2306.

The present application has not yet been examined. Thus, it is premature to speculate on whether or not there exists a potential interference between the present application and U.S. Patent 6,087,196 to Sturm et al, much less on whether to include the two other

commonly owned applications in this potential interference. With this petition, applicants have notified the USPTO of the two commonly owned applications. If it is later determined by the examiner that a potential interference exists between the present application and U.S. Patent 6,087,196 to Sturm et al, the examiner will also determine if the two other commonly owned applications should be included in this potential interference. Note that while an examiner may suggest that an interference be declared, only the Board of Patent Appeals and Interferences may actually declare an interference. See MPEP 2309, 2309.2, 2311.

The petition is **DISMISSED**.

The present application will be forwarded to the examiner, wherein examination of the application shall be conducted with special dispatch as required by 37 CFR § 1.607(b).

Richard V. Fisher

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

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320

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OFFICE OF PETITIONS

Oblon, Spivak, McClelland, Maier, & Neustadt, P.C.
Fourth Floor
1755 Jefferson Davis Highway
Arlington, Virginia 22202

In re Application of
Kitazawa, *et al.*
Application No. 09/901,098
Filed: July 10, 2001
Attorney Docket Number: 210829US2

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

This is in response to the October 29, 2001 petition Under 37 C.F.R. §1.47(a).

HISTORY

Applicant filed the above-identified application on July 10, 2001, naming Tomofumi Kitazawa, Taksshi Kitaguchi, Hiromasa Shimizu, Masayoshi Katoh, Yasuhiro Sato, Saburoh Sasaki, and Akihiro Etoh as joint inventors. However, the application as filed did not include the declaration required by 37 C.F.R. §1.53.

Accordingly, on August 27, 2001, the Office of Initial Patent Examination mailed a notice to file missing parts (hereinafter "the notice") to the address of record. A two month extendable deadline was set for filing a reply.

Petitioner filed this reply on October 29, 2001, which under 37 C.F.R. §1.7, was timely.

LAW

§ 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(l) and the last known address of the nonsigning inventor. The Patent and Trademark Office shall, except in a continued prosecution application under §1.53(d), forward notice of the filing of the application to the nonsigning inventor at said address and publish notice of the filing of the application in the Official Gazette. The nonsigning inventor may subsequently join in the application on filing an oath or declaration complying with §1.63.

ANALYSIS

Petitioner correctly points out that among the requirements for a grantable petition is the requirement that the declaration be accompanied by the last known address of the nonsigning inventor.[1] No designation of the last known address has been made with this petition.

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[1] Petition under 37 C.F.R.§1.47, page 2, last paragraph.

Petitioner is urged to consider that for rule 47 purposes, the last known address is the one at which the non-signing inventor customarily receives mail.[2] Ordinarily, that address is the non-signing inventor's residential address.[3]

Because of the foregoing, this petition is *dismissed*.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.47(a)".

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: Special Program Law Office
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) 306-5593.

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

[2] M.P.E.P. §409.03(e)

[3] *Id.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

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OFFICE OF PETITIONS

In re Application of	:
Kitazawa et al	:
Application No. 09/901,098	: DECISION GRANTING
Filed: July 10, 2001	:STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: 210829US2	:
	:

This is a decision on the renewed petition filed February 19, 2002 and supplemented on May 30, 2002, requesting reconsideration of the decision mailed December 19, 2001, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

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

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

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

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

Frances Hicks

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

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Hiromasa Shimizu
2-10-12, Nakanobu
Shinagawa
Tokyo 142-0053 JAPAN

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OFFICE OF PETITIONS

In re Application of
Tomofumi Kitazawa; Takashi Kitaguchi; Hiromasa Shimizu; Masayoshi Katoh; Yasuhiro Sato; Saburoh Sasaki; and Akihiro Etoh
Application No. 09/901,098
Filed: July 10, 2001
For: IMAGING APPARATUS, AND METHOD AND DEVICE FOR SHAKE CORRECTION IN IMAGING APPARATUS

Dear Mr. Shimizu:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-8680. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:
Oblon Spivak McClelland Maier & Neustadt, P.C.
1755 Jefferson Davis Highway, Fourth Floor
Arlington, CA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 19

Peter F. Corless
Edwards & Angell
PO Box 9169
Boston, MA 02209

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NOV 13 2003
OFFICE OF PETITIONS

In re Application of
George Perry
Application No. 09/901,186
Filed: July 9, 2001
Attorney Docket No. 5877248933

ON PETITION

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

The petition is DISMISSED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 17, 2003, which set a shortened statutory period for reply of three 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 April 18, 2003.

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 reply to the office action mailed January 17, 2003 has been submitted. Accordingly, revival of the application cannot be effected until a proper reply has been submitted. The reply must be a bona-fide attempt throughout to advance the application to final action. For petitioner's convenience a copy of the non-final Office action will be mailed with this decision.

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

By mail: Mail Stop Petitions
PO Box 1450
Alexandria, VA 22313-1450

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

Latrice Bond

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

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. 22

Edwards & Angell
PO Box 9169
Boston, MA 02209

COPY MAILED

JAN 2 7 2004

OFFICE OF PETITIONS

In re Application of
George Perry et al.
Application No. 09/901,186
Filed: July 9, 2001
Attorney Docket No. 5877248933

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 16, 2004, to revive the above-identified application.

The petition is granted.

The application file is being forwarded to Technology Center AU 1647 for further processing

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
WASHINGTON DC 20005

In re Patent No. 6,780,971 Issue Date: August 24, 2004 Application No. 09/901,187 Filed: July 9, 2001 Attorney Docket No. 2826.0040002/EJH/SAC	: : : : : :	DECISION ON PETITION

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed July 16, 2009.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued August 24, 2004. Accordingly, the first maintenance fee could have been paid during the period from August 24, 2007 through February 24, 2008 without surcharge, or with a late payment surcharge during the period from February 25, 2008 through August 24, 2008. No maintenance fee having been received, the patent expired on August 25, 2008.

Since the instant petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the

petition was timely filed under the provisions of 37 CFR 1.378(c). The maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Receipt of the $1,640 petition surcharge and the $490 maintenance fee is acknowledged.

The patented file is being returned to Files Repository.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

3

Paper No. 3

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3996

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SEP 1 0 2001

OFFICE OF PETITIONS

In re Application of	:	
Royce J. Bowles, Jr. et al.	:	
Application No. 09/901,210	:	ON PETITION
Filed: July 9, 2001	:	
Attorney Docket No. 17342-0011	:	

This is a decision on the petition under 37 CFR 1.182, filed August 13, 2001, to change the order of the names of the inventors.

The petition is granted.

Office records have been corrected to reflect the desired order of inventorship.

This file is being forwarded to the Initial Patent Examination Unit for further processing.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

Karen Creasy for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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FEB 2 5 2003

OFFICE OF PETITIONS

In re Application of Bowles et al. Application No. 09/901,210 Filed: July 9, 2001 For: METHOD FOR HIGH DEFINITION DIP TRANSFER PRINTING AND ARTICLE MADE ACCORDING TO METHOD	DECISION DISMISSING PETITION

This is in reply to "Urgent Petition to the Commissioner under 37 CFR 1.181 Requesting Retraction of Publication of Application" which was received via facsimile transmission on January 29, 2003. Petitioner argues that the above identified application was published in error, because a non-publication request was simultaneously and conspicuously filed with the application on filing. Petitioner argues that this is evidenced by the non-publication request on the transmittal letter.

The petition is **DISMISSED**.

35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested nonpublication with the required certification. The statute also permits the Office to publish applications filed before November 29, 2000, when applicant requests publication of such an application.

37 CFR 1.213(a)(2) requires that any nonpublication under 35 U.S.C. 122(b) request be published in a conspicuous manner.

The "nonpublication request" listed as an element of the application on the transmittal letter filed with the application is not is not conspicuous. The "nonpublication request" listed as one of the many application elements on the application transmittal letter is in a very small font size and is not in a larger size or of a different style to set it apart from the other elements listed on the application transmittal letter. Additionally, the application transmittal letter traditionally list elements which are included as separate papers or parts of the application and are not part of the transmittal letter themselves.

The Office has attempted to discouraged applicants from placing the Nonpublication Request in transmittal letters, as it may not be noticed. See Helpful Hints Regarding Publication of Patent Applications, 1249 Off. Gaz. Pat. Office Notices 83, (August 21, 2001), which states "[a] non-conspicuous request such as a request included on an application transmittal letter will generally not be noticed, and the application will be assigned a publication date. Applicants are encouraged to use USPTO Form PTO/SB/35, if a nonpublication request is to be made and applicants do not want the application published and the benefits of 35 U.S.C. § 154(d)."

Additionally, see the following Q & A from the website:

CQ4. I did not use the USPTO form, "Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i)" (posted at **http://www.uspto.gov/web/forms/sb0035.pdf**), when I filed a patent application. Instead I put the request for non-publication in the body of the declaration for the patent application under 37 CFR 1.63. My application was assigned a publication date. How can I get the non-publication request treated and not have my application published? (Renumbered from CA4; Updated 10/01)

A request for non-publication will not be recognized unless it is conspicuous. See 37 CFR 1.213(a)(2). Providing text as one paragraph among numerous other paragraphs with no highlighting of the request for non-publication is not conspicuous, and thus the Office's assignment of a publication date was appropriate. To avoid publication you may expressly abandon the application, and file a new application under 37 CFR 1.53(b), claiming priority to the earlier-filed application, with a "Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i)" (posted at http://www.uspto.gov/web/forms/sb0035.pdf) or make the request and certification in a similarly conspicuous manner when filing the patent application. If your application has been assigned a publication date within the next one to six months, you should consider filing a petition for express abandonment under 37 CFR 1.138(c). If your application has been assigned a publication date within the next four weeks, then it is too late to avoid publication of the application. See Changes to Implement Eighteen-Month Publication of Patent Applications, Final Rule, 65 Fed. Reg. 57024, 57034, Sep. 20, 2000, 1239 Off. Gaz. Pat. Office 63, 73 (October 10, 2000). Applicant would have a similar remedy in other situations where the request is not conspicuous, for example, where the request is in the specification of the application, on a fee transmittal sheet, or buried in the transmittal letter.

The application is being returned to Group Art Unit 1734 to await further examination in due course.

The petition fee of $130.00 under 37 CFR 1.17(h) will be charged to petitioner's Deposit Account No. 19-5029.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (703) 308-8122.

Mark O. Polutta for KF

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

COPY MAILED

SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Bowles et al.	:	LETTER REGARDING
Application No. 09/901,210	:	PATENT TERM ADJUSTMENT
Filed: July 9, 2001	:	
Attorney Docket No. 17342-0011	:	

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION," filed January 24, 2005, pursuant to applicants' duty of good faith and candor to the Office. Applicants disclose that the initial patent term adjustment should be changed from 172 days to 82 days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **EIGHTY-ONE (81)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 3, 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 to date is 172 days. Applicants disclose that a period of reduction of 90 days should have been entered for the filing of a request for continued examination (RCE) on March 8, 2004.

A review of the application history confirms that a period of reduction should have been entered for applicant delay in filing the RCE. Specifically, the RCE filed March 8, 2004, was filed in response to the final rejection mailed September 8, 2003. Pursuant to § 1.704(b), any patent term adjustment in this application is subject to an additional reduction of 91 days (not 90 days) for applicant delay from December 9, 2003 to March 8, 2004.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is EIGHTY-ONE (81) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The fee under § 1.18(e) is being refunded by the Office of Finance.

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

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

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

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : October 15, 2009

Patent No. :7565626
Inventor :09/901275
Patent Issued : July 21, 2009
Title : METHOD FOR CONTROLLING NETWORK DEVICES VIA A MMI

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the application for the patent reveals that in connection with the alleged errors the printed Letters Patent with regard to applicants request, and, in as much as the decision is determined in accordance with records of this office; correction as requested is not warranted entry. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue a certificate of correction under the provisions of 35 U.S.C. 254 and Rule 37 CFR 1.322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request is hereby denied.

Applicant may request further consideration by submission of a new request filed under 37 CFR 1.323 along with the Certificate of Correction fee presently $100.00 or a reconsideration filing together with documentation in support of applicants request filed under 37 CFR 1.322. Required documentation may include acknowledgement of receipt.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

A Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1584

Bradly D. Lytle
OBLON, SPIVAK, McCLELLAND, MAIER
& NEUSTADT, L.L.P.
1940 Duke Street
Alexandria, Va 22314

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-29-10

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/901275 Patent No.: 7565626

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

T.L. ☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

/Kieu Vu/ 2173

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

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

COPY MAILED

APR 1 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Giuseppe Rossi et al	:	
Application No. 09/901,280	:	NOTICE
Filed: July 9, 2001	:	
Attorney Docket No. 08305/116001 / 20-31	:	

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 2816.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 6

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAILED

FEB 24 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:

09/901,280

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

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

cc: Micron Technology, Inc.
C/o Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington DC 20037-1526

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

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DEC 13 2002

OFFICE OF PETITIONS

The Whitaker Corporation
Suite 450
4550 New Linden Hill Road
Wilmington DE 19808

In re Application of
O'Toole, Levin, Edwards, Xu, Vandenberg, Markham
Application No. 09/901,293
Filed: July 9, 2001
Attorney Docket No. 17586A USA
For: OPTOELECTRIC MODULE FOR MULTI-FIBER ARRAYS

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
: AND
: DECISION ON PETITION UNDER
: 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.47(a), filed October 1, 2002.

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

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

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a) and Renewed Petition Under 37 CFR 1.137(b)."

This above-cited application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Missing Parts of Nonprovisional Application" ("Notice") mailed August 23, 2001, which indicated that a proper declaration under 37 CFR 1.63 was missing. The Notice set forth a shortened period for reply of two months from its mailing date. No response was received within the allowable period and the application became abandoned on November 24, 2002.

Consideration under 37 CFR 1.47(a)

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

(1) proof that the nonsigning 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 nonsigning inventor.

Petitioner lacks item (1) as set forth above.

As to item (1), the evidence provided with the instant petition does not indicate that the complete application papers were presented to the non-signing inventors. Rather, the transmittal letters indicate that only the Declaration and Power Attorney were presented to the non-signing inventors. The conclusion that the subject inventors have constructively refused to join the application cannot be reached because it does not appear that the non-signing inventors have had the opportunity to review the entire application. The non-signing inventors can not be deemed to have made an intelligent decision not to join a patent application that they have not had an opportunity to review. Any renewed petition filed must, therefore, provide evidence that the non-signing inventors have, indeed, been presented with a complete copy of the

application papers for their review.

Deposit account 19-5425 will be assessed $130.00 for the instant petition fee.

Consideration under 37 CFR 1.137(b):

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

(1) the required reply, unless previously filed. In a 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 this issue fee or any outstanding balance thereof.

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

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

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

The present petition does not satisfy item (1).

As to item (1), petitioner has failed to submit the required reply to the "Notice to File Missing Parts of Application" of October 6, 1999. Petitioner must either file a declaration signed by all of the inventors or a grantable petition under 37 CFR 1.47(a).

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 2 5 2003

OFFICE OF PETITIONS

The Whitaker Corporation
Suite 450
4550 New Linden Hill Road
Wilmington DE 19808

In re Application of O'Toole, Levin, Edwards, Xu, Vandenberg, and Markham Application No. 09/901,293 Filed: July 9, 2001 Attorney Docket No. 17586A USA For: OPTOELECTRIC MODULE FOR MULTI-FIBER ARRAYS	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a) AND DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 18, 2003 (certificate of mailing dated March 13, 2003.)

This is also a decision on the renewed petition under 37 CFR 1.47(a), also filed March 18, 2003

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

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

Consideration under 37 CFR 1.47(a):

Petitioner has shown that the non-signing inventor, Bradley S. Levin, has refused to join in the filing of the above-identified application after having been presented with the complete application papers.

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

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

Consideration under 37 CFR 1.137(b):

This application became abandoned on October 24, 2001, for failure to timely file an appropriate response to the "Notice of Missing Parts of Nonprovisional Application" (the "Notice') mailed August 23, 2001, which set a shortened period for reply of two months from its mailing date. No extension of the time for the reply was obtained; the application became abandoned on October 24, 2001. A petition under 37 CFR 1.1.37(b) was filed on October 1, 2002, and was dismissed by a decision mailed December 13, 2002. The instant renewed petition was then filed on March 18, 2003

As the requirements of 37 CFR 1.137(b) have been met, the above-cited application is, hereby, revived.

Deposit account 19-5425 will be assessed $110.00 for an extension of time within the first month which is necessary in order to make the renewed petitions timely.

The address as cited on the instant 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 appropriate written instructions to the contrary are received.

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR C11
PLANO TX 75024

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FEB 1 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Lindskog et al.	:	
Application No. 09/901,332	:	ON PETITION
Filed: July 9, 2001	:	
Attorney Docket No. P14464-US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 23, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Reply under 37 CFR 1.111; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply 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 September 23, 2005, was subsequent to the maximum extendable period for reply, this fee is unnecessary and 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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

Carina M. Tan
Perkins Coie LLP
P.O. Box 2168
Menlo Park, CA 94026

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JUN 0 3 2003

Technology Center 2100

In re Application of:	)	
CHAWLA et al.	)	
Application No. 09/901,350	)	DECISION ON PETITION TO MAKE
Filed: July 9, 2001	)	SPECIAL UNDER M.P.E.P. §708.02(II):
For: METHOD AND SYSTEM FOR	)	INFRINGEMENT
CACHING SECURE WEB CONTENT	)	

This is a decision on the petition, filed May 12, 2003, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

The petition is **GRANTED**.

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(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. Applicant must provide one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

Applicant's submission 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.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-30-07

Paper No.: ____

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction on Patent No.: 6434762 B2 09/901359

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.

Reconsideration

E. James

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext. ~~[illegible]~~

Attorney & Applicant want to know the status A/S/A/P. old case

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

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

Comments:

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/11/2007 Paper No.: ____

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction on Patent No.: 6434362 B2 09/901359

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.

Reconsideration

E. James

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext.

Attorney & Applicant want to know the status A/S/A/P. old case

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 IDS was filed 5/24/02 (per the certificate of mailing), which is more than three months after the filing date of the application, and later than the Notice of Allowance mailed 3/11/02. The IDS was not accompanied by a statement or fee as required by 37 CFR 1.97(d) in these circumstances. Thus, the IDS will not be considered, and the omission of the reference is proper.

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3751
Art Unit

1-15-08

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

Patent No. : 6,434,763 B2
Inventor(s) : Toshiaki Kawakami
Issued : August 20, 2002
For: SEAT SUPPORTING TABLE FOR A BARBER OR BEAUTY CHAIR AND HAIR WASHER WITH THE SEAT SUPPORTING TABLE

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error on the title page, pertaining to the IDS was filed 5/24/02 (per the certificate of mailing), which is more than three months after the filing date of the application, and later than the Notice of Allowance mailed 3/11/02. The IDS was not accompanied by a statement or fee as required by 37 CFR 1.97(d) in these circumstances. Thus, the IDS will not be considered, and the omission of the reference is proper

In view of the foregoing, your request is hereby again denied.

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Marjama Muldoon Blasiak & Sullivan
250 South Clinton Street
Suite 300
Syracuse NY 13202

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 26, 2008

TO SPE OF : ART UNIT _____

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/901,359 Patent No.: 6434763 B2

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

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

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

Should COCIN dated February 12, 2008 be approved?

The correction to add reference Foreign Patent Document previously denied (see SPE Response dated December 11, 2007)

Attorney is presenting documentation to provide evidence why reference ~~to~~ be entered

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

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

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

Comments: The IDS was filed 5/24/02 (per the certificate of mailing), which is more than three months after the filing date of the application, and later than the Notice of Allowance mailed 3/11/02. The IDS was not accompanied by a statement or fee as required by 37 CFR 1.97(d) in these circumstances. Thus, the IDS will not be considered, and the omission of the reference is proper.

Greg Huson 3/19/08 3751

GREGORY HUSON — SPE — Art Unit
SUPERVISORY PATENT EXAMINER
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

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445-2408

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Sarah Black et al	:	DECISION ON PETITION
Application No. 09/901,372	:	TO WITHDRAW
Filed: July 9, 2001	:	FROM RECORD
Attorney Docket No. SH-1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 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 Howard J. Greenwald on behalf of all attorneys of record who are associated with customer No. 37282.

All attorneys/agents associated with the Customer Number 37282 have been withdrawn.

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

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

This matter is being referred to Files Repository.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: MICHAEL L. WEINER
BIOMED SOLUTIONS
150 LUCIUS GORDON DRIVE SUITE 215
WEST HENRIETTA, NY 14586

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

FOGG, SLIFER & POLGAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of	:
Michael J. Geile et al	: DECISION ON PETITION
Application No. 09/901,374	: UNDER 37 CFR 1.78(a)(3)
Filed: July 9, 2001	:
Attorney Docket No. 100.070US26	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 31, 2002, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed applications set forth in the amendment filed June 27, 2002.

The petition is **DISMISSED**.

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

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

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

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

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

The instant application was filed on July 9, 2001 and was pending at the time of filing of the instant petition.

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

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed June 27, 2002 fails to state the relationship of Application No. 08/311,964, filed September 26, 1994; Application No. 08/455,340, filed May 31, 1995; Application No. 08/455,059, filed May 31, 1995; Application No. 08/457,294, filed June 1, 1995; Application No. 08/457,110, filed June 1, 1995; Application No. 08/456,871, filed June 1, 1995; Application No. 08/457,022, filed June 1, 1995; and Application No. 08/457,037, filed June 1, 1995 to the instant application.

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

incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must amend the specification to state the relationship of the instant application to the application(s) for which the benefit is sought and submit a substitute amendment [2] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment and renewed petition by facsimile transmission to the number indicated below and to the attention of Karen Creasy.

---

[2]Note 37 CFR 1.21

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

FOGG, SLIFER & POLGLAZE
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

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AUG 2 1 2003

OFFICE OF PETITIONS

In re Application of
Michael J. Geile et al
Application No. 09/901,374
Filed: July 9, 2001
Attorney Docket No. 100.070US26

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on August 14, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on July 9, 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).

---

[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 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.

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 Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 2683 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

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

ATTACHMENT: Corrected Filing Receipt

cc:
FOGG AND ASSOCIATES
P.O. BOX 581339
MINNEAPOLIS, MN 55458-1339

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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EUNHEE PARK
BAKER & MCKENZIE LLP
1114 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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APR 11 2006

OFFICE OF PETITIONS

In re Application of	:	
DAVID YAN et al	:	
Application No. 09/901,387	:	DECISION ON PETITION
Filed: July 9, 2001	:	TO WITHDRAW
Attorney Docket No. 55131569-5	:	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 17, 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 Eunhee Park, on behalf of all attorneys of record. Eunhee Park and all attorneys associated with Customer Number 26453 have been withdrawn.

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

All future correspondence will be directed to the first named inventor David Yan at the address indicated below.

The application became abandoned for failure to respond to the office action mailed May 16, 2005.

Telephone inquiries concerning this decision should be directed to Amelia Au at 571.272.7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: DAVID YAN
10-1-5, B. KOZLOVSKY PER
MOSCOW, RUSSIA 107078

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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Bryan Cave LLP
1290 Avenue of the Americas, 33rd Floor
New York, NY 10104

In re Application of Caputo et al. Application No. 09/901,389 Filed: July 9, 2001 Attorney Docket C041473/0124196	DECISION GRANTING PTA REQUEST

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(b)" filed on May March 10, 2006 requesting that the Patent Term Adjustment be adjusted from a determination of eight hundred and thirteen days (813) days to a determination of eight hundred and forty (841) days.

Applicants' request is **GRANTED-in-part.** The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision. The actual determined amount of PTA is 842 days rather than applicants' requested amount of (841) days.

Applicant argues that the Office met the 14th month requirement on April 7, 2005 not March 23, 2005. Accordingly, applicants' assert that the proper amount of PTA for this period is 940 days. In addition, applicants assert that the April 7, 2005 Office action was replied to on August 1, 2005, a twenty-five day delay not thirty-nine day delay. Applicants assert that the IDS submission of October 14, 2005 was a seventy-four (74) day reduction.

Applicants' argument have been considered and deemed persuasive to the extent here indicated. A review of the record reflects that the Office mailed the March 23, 2005 Office action to the wrong address.[1] Accordingly, the Office action was re-mailed on April 7, 2005. The delay amounted to 941 days not 940 days.[2] In addition, the applicants are further correct on the fact the response mailed on August 1, 2005 was a twenty-five (25) day delay not thirty-nine (39) days. Applicant did not contest the 74 days reduction for submission of an IDS under 37 CFR 1.704(c)(8). Accordingly the correct amount of PTA at the time of the mailing of the notice of allowance is 842 days (941-74-25= 842).

---

[1]Applicants had mailed a correspondence address change to the Office on June 30, 2003.

[2]The delay began on September 9, 2002 and ended on April 7, 2005, a nine hundred and forty-one day delay.

Application No. 09/901,389

After the mailing of this Office action, the Office will forward such application to the Office of Patent Publication for a prompt issuance of the patent. Any delays in not issuing the patent within four months of the payment of the issue fee under 37 CFR 1.704(a)(4) will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

The applicants have authorized payment of $200.00 as the fee. No additional fees are required in the determination of this request.

Any questions concerning this determination should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries

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

cc: Adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Mick A. Nylander,
GKN Automotive, Inc.
3300 University Drive
Auburn Hills MI 48326-2362

COPY MAILED

OCT 0 2 2002

OFFICE OF PETITIONS

In re Application of
Hans Wormsbaecher
Application No. 09/901,400
Filed: July 9, 2001
Attorney Docket No. G-00262C1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2002, 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 23, 2001, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period and no proper response filed. Accordingly, the application became abandoned on January 24, 2002. A Notice of Abandonment was mailed on August 12, 2002.

A review of the application file and Office computer records revealed that petitioner obtained an extension of time within the fourth month on June 4, 2002--outside the maximum allowable period set for reply which expired on April 24, 2002. Deposit account 07-1360 will be credited $1,440.00 because the extension of time was not available to petitioner when it was requested.

The application is being forwarded to Technology Center 3600 for review of the amendment filed on June 4, 2002.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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APR 2 9 2005

OFFICE OF PETITIONS

Benjamin Aaron Adler
ADLER & ASSOCIATES
8011 Candle Lane
Houston, TX 77071

In re Application of
David N. Herndon
Application No. 09/901,429
Filed: July 9, 2001
Attorney Docket No. D6414

ON PETITION

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

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Monica A. De La Paz appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. However, if Ms. De La Paz desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Ms. De La Paz, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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).

The application is being referred to Technology Center AU 1614 for further processing of the request for continued examination under 37 CFR 1.114 filed April 28, 2005.

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

cc: Monica A. De La Paz
FULBRIGHT & JAWORSKI
600 Congress Avenue, Suiter 1900
Austin, TX 78701

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David L. Parker
FULBRIGHT & JAWORSKI L.L.P.
Suite 2400
600 Congress Avenue
Austin TX 78701

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MAR 2 8 2008

OFFICE OF PETITIONS

In re Patent No. 7,098,248	:	DECISION ON REQUEST
David Herndon	:	FOR RECONSIDERATION OF
Issue Date: August 29, 2006	:	PATENT TERM ADJUSTMENT
Application No. 09/901,429	:	and
Filed: July 9, 2001	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. CLFR:218US	:	CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d), filed October 27, 2006. Patentees request that the patent term adjustment as indicated in the issued patent be corrected from four hundred forty-three (443) days to six hundred thirty-five (635) days.

The request for reconsideration of the patent term adjustment indicated in the patent 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 five hundred seventy **(570)** days.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On August 29, 2006, the application matured into U.S. Patent No. 7,098,248, with a revised patent term adjustment of 443 days. On October 27, 2006, patentees timely submitted this request for

reconsideration of patent term adjustment (with required fee), requesting that the Patent Term Adjustment be extended to 635 days. Patentees dispute the reductions of 72 days and 120 days both entered pursuant to 37 CFR 1.704(c)(10) for the filing of "miscellanous incoming letters." Citing MPEP §2732 and 1247 Off. Gaz. Pat. Office 111 (June 26, 2001), patentees assert that these papers are not a delay by Applicant.

MPEP 2732:

> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) 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 or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office).

A review of the letters filed September 26, 2005 and December 7, 2005, confirm that the papers filed were equivalent to a Fee Transmittal (i.e., a required request to apply the previous fee transmittal to a new Notice of Allowance) and a change of status (small/not small entity status). Thus, no reduction was warranted. Accordingly, the reductions of 72 days and 120 days have been removed.

However, a review of the record also reveals that a Petition to Withdraw from Issue, a Request for Continued Examination and an Information Disclosure Statement were filed on April 28, 2005, and an Information Disclosure Statement (IDS) was filed on June 3, 2005. Neither of the IDSs included a §1.704(d) statement. All of these papers were filed after the mailing of the Notice of Allowance on November 18, 2004 and payment of the Issue Fee on February 22, 2005. The entry of a reduction of 69 days,

pursuant to § 1.704(b) is incorrect. This applicant delay was pursuant to 37 CFR 1.704(c)(10). Accordingly, considering overlap, the period of applicant delay is 134 days, counting the number of days in the period beginning on April 28, 2005 and ending on September 8, 2005, the date of mailing of the new Notice of Allowance in response. The period of reduction associated with the filing of the RCE of 134 days has been entered, while a period of reduction of 69 days has been removed.

In view thereof, the patent should have issued with a patent term adjustment of five hundred seventy (570) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The fee is required and will not be waived.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred seventy (570) 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

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,098,248 B2

DATED : **August 29, 2006**

INVENTOR(S) : Herndon

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 443 days

Delete the phrase "by 443 days" and insert – by 570 days--

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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Patent No. 7,142,399	:	
Hasegawa et al.	:	DECISION ON REQUEST
Issue Date: 28 November, 2006	:	FOR
Application No. 09/901,438	:	RECONSIDERATION OF
Filed: 9 July, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281-3996	:	
	:	

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed on 29 January, 2007. Patentees request that the patent term adjustment indicated in the patent be corrected from eight hundred twenty-nine (829) days to one thousand seven hundred one (1701) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On 28 November, 2006, the above-identified application matured into U.S. Patent No. 7,142,399. The instant request for reconsideration filed 29 January, 2007, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of 829 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 1701 days on the basis

that the patent issued 3 years and 872 days after the date on which the application was filed.

It is agreed that the instant patent issued 3 years and 872 days after its filing date. However, § 1.703(b)(1) provides, in pertinent part that:

> the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) … and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

Thus, the filing of a request for continued examination (RCE) cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment.

In this instance, an RCE was filed on 7 June, 2005. Thus, the ability to accumulate additional patent term adjustment against the three-year pendency provision ended 6 June, 2005. Accordingly, the period of adjustment under § 1.702(b) is 331 days, counting the number of days beginning on 10 July, 2004, and ending on 6 June, 2005.

Moreover, if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions;

Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 829 days attributable to grounds specified in § 1.702(a)(1) and (2) overlaps with the 331 days attributable to the delay in the issuance of the patent. Thus, the period of adjustment cannot exceed the actual number of days of delay of 829 days.

In view thereof, the patent properly issued with a patent term adjustment of 829 days.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to counsel's deposit account as authorized in the petition.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte Ross et al.

Appeal No. 2007-1587
Application No. 09/901,512

Mailed: May 30, 2008

DECISION ON PETITION

This is a decision on the Request for Oral Hearing, filed April 29, 2008 ("Petition"). The Request for Oral Hearing will be treated as a petition to the Chief Administrative Patent Judge under 37 C.F.R. § 41.3(b).

FINDINGS

1. On February 20, 2008, a telephonic oral hearing was held in this appeal.

2. The Board of Patent Appeals and Interferences ("Board") issued a Decision on Appeal on February 29, 2008, affirming the rejections of all appealed claims on new grounds of rejection.

3. On April 29, 2008, Appellant filed a Request for Rehearing Pursuant to 37 CFR § 41.52 ("Request for Rehearing"). The Request for Rehearing states that:

> The present decision may well impact several other previously issued patents as well as presently pending applications. . . [I]t is respectfully submitted that the implications of the Board's present decision reach beyond the present application, and it would therefore be appropriate to permit oral proceedings [on this Request for Rehearing].

Req. for Reh., p. 1.

5. The USPTO rules, including 37 C.F.R. § 41.47 (oral hearing) and § 41.52 (rehearing), do not contain any provision for an oral hearing on a request for rehearing.

6. To justify the granting of an oral hearing on a request for rehearing, outside the USPTO rules, the minimum showing required is good cause in the form of identification of the issues to be addressed at the proposed oral hearing and an explanation of why an oral hearing is deemed necessary to present those issues.

DISCUSSION

Other than the contention that the Decision on Appeal in this appeal may impact previously issued patents and other presently pending applications, Appellants have not identified the issues giving rise to such impact and why an oral hearing is deemed necessary to present such issues. Thus, Appellants have failed to demonstrate good cause for seeking an oral hearing on the Request for Rehearing.

DECISION

In view of the foregoing, the Petition is DENIED, and the Request for Rehearing will be assigned to a panel for decision.

Michael R. Fleming
Chief Administrative Patent Judge

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

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ROBERT BUCKLEY
PATENT ATTORNEY
P.O. BOX 2520
MENLO PARK, CA 94026-2520

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APR 25 2002

OFFICE OF PETITIONS

In re Application of	:
Imran Sharif, Noor. A. Kadir, Glen	:
Edward Ivey, Noman Waseq, William	: DECISION GRANTING PETITION
Knapp and John Bremsteller	: UNDER 37 CFR 1.47(a)
Application No. 09/901,544	:
Filed: July 8, 2001	:
Title: SYSTEM AND METHOD FOR	:
INTERNET APPLIANCE DATA ENTRY	:
AND NAVIGATION	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 23, 2002 (Certificate of Mailing date: December 20, 2001).

The petition is **granted**.

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

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

The file is being forwarded to Technology Center 2600.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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NOMAN WASEQ
37512 CHAUNTRY COMMON
FREMONT, CA 94536

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APR 25 2002

OFFICE OF PETITIONS

In re Application of
Imran Sharif, Noor. A. Kadir, Glen Edward Ivey, Noman Waseq,
William Knapp and John Bremsteller
Application No. 09/901,544
Filed: July 8, 2001
Title: SYSTEM AND METHOD FOR INTERNET APPLIANCE DATA ENTRY AND NAVIGATION

Dear NOMAN WASEQ:

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 (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ROBERT BUCKLEY
PATENT ATTORNEY
P.O. BOX 2520
MENLO PARK, CA 94026-2520

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM KNAPP
10761 RIDGE VIEW AVENUE
SAN JOSE, CA 95127

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APR 2 5 2002

OFFICE OF PETITIONS

In re Application of
Imran Sharif, Noor. A. Kadir, Glen Edward Ivey, Norman Waseq,
William Knapp and John Bremsteller
Application No. 09/901,544
Filed: July 8, 2001
Title: SYSTEM AND METHOD FOR INTERNET APPLIANCE DATA ENTRY AND NAVIGATION

Dear WILLIAM KNAPP:

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 (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ROBERT BUCKLEY
PATENT ATTORNEY
P.O. BOX 2520
MENLO PARK, CA 94026-2520

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN BREMSTELLER
3020 COUNTRY SQUARE
SUITE 2126
CARROLLTON, TX 75006

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APR 2 5 2002

OFFICE OF PETITIONS

In re Application of
Imran Sharif, Noor. A. Kadir, Glen Edward Ivey, Norman Waseq,
William Knapp and John Bremsteller
Application No. 09/901,544
Filed: July 8, 2001
Title: SYSTEM AND METHOD FOR INTERNET APPLIANCE DATA ENTRY AND NAVIGATION

Dear JOHN BREMSTELLER:

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 (703) 306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ROBERT BUCKLEY
PATENT ATTORNEY
P.O. BOX 2520
MENLO PARK, CA 94026-2520

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK, NY 10005-1413

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NOV 1 5 2001

OFFICE OF PETITIONS

In re Application of	:	
Kinney et al.	:	
Application No. 09/901,553	:	DECISION GRANTING PETITION
Filed: 6 July, 2001	:	
Attorney Docket No. 09163-20801	:	

This is a decision on the petition filed on 1 October, 2001, requesting that the above-identified application, including Pages 49-50 of the specification, be accorded a filing date of 6 July, 2001.

The application was filed on 6 July, 2001. On 4 September, 2001, Initial Patent Examination Division mailed a "Notice to File Corrected Application Papers" stating, *inter alia*, that Pages 49 and 50 of the specification appeared to have been omitted.

In response, the present petition was filed on 1 October, 2001. Petitioners assert that Pages 49 and 50 of the specification were filed with the other application papers on 6 July, 2001, but later misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 1 October, 2001. The postcard receipt itemizes the filing of, *inter alia*, 53 pages of specification and contains an Office-date stamp bearing the above-identified application number and the date of 6 July, 2001. Petitioners request that the application, including Pages 49 and 50 of the specification, be accorded a filing date of 6 July, 2001.

Based on the evidence present in the file, it is concluded that pages 49 and 50 of the specification were filed on 6 July, 2001, but were subsequently misplaced in the Office.

The "Notice" mailed on 4 September, 2001, was sent in error and is withdrawn to the extent that it stated that pages 49 and 50 of the specification appeared to have been omitted.

The petition is granted.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 6 July, 2001, using the application papers filed on 6 July, 2001, and the copy of Pages 49 and 50 of the specification supplied on 1 October, 2001.

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

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

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2-12-07

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 7067637 B1 (09/901556

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**

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2-12-07

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 7067637 B1 (09/901556

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

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

Thank You For Your Assistance

E. James
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

1646
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,067,637

DATED : June 27, 2006

INVENTOR(S) : Gertrud Hötten and Helg Neidhardt

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

(75) Inventors: Gertrud Hötten, "**Herne**", DE

Helge Neidhardt, "**Marburg**", DE

(62) The Related U.S. Application Data should read as follows:

"Division of application No. 08/289,222 filed August 12, 1994, now Patent No. 6,120, 760 which is continuation-in-part of PCT/EP93/00350 filed February 12, 1993."

MAILING ADDRESS OF SENDER:

Rothwell, Figg, Ernst & Manbeck
1425 K Street, N.W., Suite 800
Washington, D.C. 20005

PATENT NO. 7,067,637

No. of additional copies 1

JAN 1 9 2007

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United States Patent and Trademark Office
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Raphael Rahamim	: DECISION ON REQUEST FOR
Patent Number	: 7583797	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/901,558	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/10/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1418** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Schwabe, Williamson & Wyatt, P.C.
Pacwest Center
Suites 1600-1900
1211 SW Fifth Avenue
Portland, OR 97204

COPY MAILED
JUN 2 7 2003
OFFICE OF PETITIONS

In re Application of	:	
Jeremy A. Kenyon	:	
Application No. 09/901,560	:	DECISION GRANTING PETITION
Filed: July 9, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 41018.P013	:	

This is a decision on the petition filed June 10, 2003, under 37 CFR 1.137(f) which is being treated under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on July 2, 2002. However, the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition must be accompanied by:

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

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

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

The failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 2, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2152 for examination in due course.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

April 20, 2005

Steven C. Bauman
Henkel Loctite Corporation
Legal Department
1001 Trout Brook Crossing
Rocky Hill, CT 06067

In re Application of:
Takahisa Doba
Serial No: 09/901,581 On Petition
Filing Date: July 9, 2001
For: **REWORKABLE THERMOSETTING RESIN COMPOSITIONS**

In response to the petition received on February 14, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The application has been completed for release to the Technology Center 1714.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

February 2, 2005

Steven Bauman
Hankel Loctite Corporation
Legal Department
1001 Trout Brook Crossing
Rocky Hill, CT 06067

In re Application of:
Takahisa Doba
Serial No: 09/901,581 On Petition
Filing Date: July 9, 2001
For: REWORKABLE THERMOSETTING RESIN COMPOSITIONS

In response to the petition received on December 31, 2003, a notice was mailed to the attorney on August 5, 2004 requesting the missing substitute declaration sent on September 5, 2001, in the above application. The office has not received a response from the attorney of record.

The petition is Denied.

The above application has been returned to the Warehouse for storage.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

April 20, 2005

Steven C. Bauman
Henkel Loctite Corporation
Legal Department
1001 Trout Brook Crossing
Rocky Hill, CT 06067

In re Application of:
Takahisa Doba
Serial No: 09/901,581 On Petition
Filing Date: July 9, 2001
For: **REWORKABLE THERMOSETTING RESIN COMPOSITIONS**

In response to the petition received on February 14, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The application has been completed for release to the Technology Center 1714.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 16

MILLEN WHITE ZELANO & BRANIGAN PC
2200 CLARENDON BOULEVARD
SUITE 1400
ARLINGTON, VA 22201

COPY MAILED
MAY 27 2003
OFFICE OF PETITIONS

In re Application of	:	
Darrell T. McKenzie	:	
Application No. 09/901,632	:	DECISION GRANTING PETITION
Filed: July 11, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. DANA-140	:	

This is a decision on the petition, filed April 18, 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 July 10, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A corrected Filing Receipt which sets forth the projected publication date of September 4, 2003 has been mailed under separate cover.

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

This application is being forwarded to Technology Center Art Unit 1723 for processing the Request for Continued Examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement and amendment filed April 18, 2003.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

MILLEN WHITE ZELANO & BRANIGAN, P.C.
2200 CLARENDON BOULEVARD
SUITE 1400
ARLINGTON, VA 22201

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APR 21 2003

OFFICE OF PETITIONS

In re Application of :
Darrell T. McKenzie :
Application No. 09/901,632 :
Filed: July 11, 2001 :
Attorney Docket No. DANA-140 :

ON PETITION

This is a decision on the petition, filed April 18, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be retained for consideration of the petition under 37 CFR 1.137(f). Afterwards, the file will be forwarded to Technology Center AU 1723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and Information Disclosure Statement.

Frances Hicks

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

Date : April 21, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/901,632**

Applicant(s) : Darrell T. McKenzie
Application No. : 09/901,632
Filed : July 11, 2001

The above-identified application has been assigned Patent No. 6,558,534 and an issue date of May 6, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 6, 2003:

"All reference to Patent No. 6,558,534 to Darrell T. McKenzie of North Carolina for COMBINATION VALVE SUPPORT AND SEALING ELEMENT FOR FILTER CARTRIDGES appearing in the Official Gazette of May 6, 2003 should be deleted since no patent was granted."

Frances Hicks
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
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

Bacon & Thomas
625 Slaters Lane, 4th Floor
Alexandria, VA 22314-1176

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FEB 12 2004
OFFICE OF PETITIONS

In re Application of
Thomas Malzahn
Application No. 09/901,636
Filed: July 11, 2001
Attorney Docket No. MALZ3001 / FJD

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 29, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on April 30, 2003.

The application file is being forwarded to Technology Center AU 2856 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

SYNGENTA BIOTECHNOLOGY INC
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK, NC 27709-2257

COPY MAILED

SEP 1 0 2001

OFFICE OF PETITIONS

In re Application of Edouard Guillaume Lebel et al Application No. 09/901,737 Filed: July 9, 2001 Attorney Docket No. S-21043B	: : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed July 27, 2001, which is properly treated as a petition under 37 CFR 1.10 (d), requesting that the above-identified application be accorded a filing date of July 9, 2001, rather than the presently accorded filing date of July 11, 2001.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on July 9, 2001, pursuant to the requirements of 37 CFR 1.10. In support petitioners submit, inter alia, a copy of Express Mail receipt number EF223059203US, a U.S. Postal Service (USPS) sales receipt for the Express Mail package in question, and a copy of the original transmittal letter referring to the same Express Mail number.

While the "date-in" on the copy of the Express Mail receipt reflects a handwritten 7, the USPS sales receipt indicates that Express Mail label No. EF223059203US was accepted on July 9, 2001. A search of the USPTO's USPS Express Mail Information Database confirms that a package bearing Express Mail label No. EF223059203US was accepted at 4:09 pm on July 9, 2001.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on July 9, 2001.

The petition is granted.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division for correction of the filing date to March 10, 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

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

Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 06/11/2010

Applicant	: Hung Phi	: DECISION ON REQUEST FOR
Patent Number	: 6718449	: RECALCULATION of PATENT
Issue Date	: 04/06/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 09/901,738	: OF WYETH
Filed	: 07/09/2001	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 15 2010

OFFICE OF PETITIONS

MR. GREGORY N. SMALLWOOD
785 DAVID RD
LEAGUE CITY TX 77573

In re Patent No 6,931,125
Issue Date: August 16, 2005
Application No. 09/901,763
Filed: July 10, 2001
Attorney Docket No. GNS-165

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 18, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 16, 2009, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
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
DRW 11-01

Paper No. 4

ROBERT S. BEISER
MICHAEL BEST & FRIEDRICH, LLP
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-4108

COPY MAILED

NOV 1 5 2001

OFFICE OF PETITIONS

In re Application of	:	
Michael Robert Smialek	:	
Application No. 09/901,804	:	DECISION GRANTING PETITION
Filed: 10 July, 2001	:	
Att'y Docket No. 086328-9004	:	

This is a decision on the petition filed on 17 October, 2001, requesting that the above-identified application be accorded a filing date of 10 July, 2001.

On 10 July, 2001, the application was filed.

On 28 August, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts stating that the application had been accorded a filing date of 11 July, 2001, and that the basic filing fee, and a surcharge for its late filing were required.

In response, on 17 October, 2001, the present petition was filed, accompanied by a copy of petitioner's postcard receipt, which itemizes the filing of, *inter alia*, 36 pages of specification, 5 pages of claims, and 38 sheets of drawings. The postcard identifies the application by inventor's name and invention title, and shows an Office date stamp of 10 July, 2001. Petitioners request that the application be accorded a filing date of 10 July, 2001.

A review of the record reveals that the application papers in the official file have an "Office date" stamp of 10 July, 2001.

Petitioners should note, when preparing future filings, that the postcard receipt should itemize the total number of pages of

specification (including written description, claims, and abstract) as a single figure.[1]

In view of the above, the petition is granted. No petition fee has been charged and none is due.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 10 July, 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

[1] MPEP 503.

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 8 2005

Paper No. 102904

BORDEN LADNER GERVIS LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET, SUITE 1100
OTTAWA ON K1P 1JP
CANADA

In re Application of:	:	
PAUL FELUCH	:	
Serial No.: 09/901,894	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: July 11, 2001	:	
Attorney Docket No.: **PAT554-2**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed October 25, 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 L. Anne Kinsman, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

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

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

cc: HICKS & PENMAN
SUITE 123, 31ST STREET, NW
CALGARY AB T2L 2K7
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 17 2005

THOMAS S. SOSSONG, JR.
MORGAN, LEWIS & BROKIUS, LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

In re Application of	:
Michael Econs et al	:
Serial No.: 09/901,938	: PETITION DECISION
Filed: July 10, 2001	:
Attorney Docket No.: 053884-5001	:

This is a response to the petition under 37 CFR 1.59(b), filed January 19, 2005 to expunge information from the above identified application.

Petitioner requests that an Examiner created Interview Summary Record, mailed June 22, 2004, be expunged from the record. Petitioner does not state 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 purpose of a petition to expunge is to allow submission by applicant of information which may be material to the examination of an application, but which is not available to the public. Applicants request in this instance that an examiner created document be expunged from the record. Documents created by the examiner reflect the position of the Office with respect to prosecution of an application and removal of such documents would be inappropriate except in instances where derogatory comments or inappropriate personal attacks are made. In such instances redaction of the document may be in order.

A review of the Interview Summary Record in question does not show that any derogatory comments or personal attacks are set forth. What is shown is a report of a telephonic interview between applicants' attorney and the examiner followed by a second telephonic interview between applicants' attorney and the examiner's Supervisor. In both instances, the result of the interview was the same and is reflected in the Interview Summary Form mailed to applicants.

As with any interview there may arise differences of opinion as to what occurred or what, if any, agreements were made. For that reason the Interview Summary Form includes as the last paragraph of the first page a requirement for applicants to provide a summary of the interview in the next Office action response or, if a response has already been made, within one month from the date of the interview. It appears that applicants did not provide any such comments within the time period set. The examiner then mailed a new non-Final Office action to applicants on July 23, 2004.

The petition to is **DENIED** for the reasons set forth above.

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

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

COPY MAILED
JAN 27 2005
OFFICE OF PETITIONS

COPY MAILED
JAN 26 2005
CANCELLED
OFFICE OF PETITIONS

In re Application of
Michael Kocheisen et al
Application No. 09/901,950
Filed: July 10, 2001
Attorney Docket No. 2000-0623

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 30, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on August 7, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months 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 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 Irvin Dingle at (571) 272-3210.

Frances Hicks

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

cc:

Gary H. Monka
805 Partridge Drive
Bridgewater, NJ 07024

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

PARK, VAUGHAN & FLEMING LLP
702 MARSHALL STREET
SUITE 310
REDWOOD CITY, CA 94063

COPY MAILED

NOV 0 8 2001

OFFICE OF PETITIONS

In re Application of	:
Templeton and Bhargava	:
Application No. 09/901,954	: DECISION ACCORDING STATUS
Filed: 10 July, 2001	: UNDER 37 CFR 1.47(a)
Attorney Docket No. PAY00-003	:

This is in response to the petition filed under 37 CFR 1.47(a) on 12 October, 2001.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Sanjay Bhargava, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of petitioner's registered patent attorney, Daniel E. Vaughan, establishes that the inventor was sent a copy of the application, but refused orally to sign and return the declaration naming him as a joint inventor along with James E. Templeton.

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.

It is noted that the declaration filed with on 10 July, 2001, 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.

Counsel's deposit account, No. 50-1801, will be charged the surcharge of $130.00, as authorized in the petition, for late filing of an oath or declaration because the petition was not filed with the application papers on 10 July, 2001.

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.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SEP 03 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Park, Vaughan & Fleming LLP
702 Marshall Street, Suite 310
Redwood City, CA 94063

In re Application of:		
James Templeton, et al	:	DECISION ON
Application No. 09/901,954	:	PETITION TO
Filed: July 10, 2001	:	MAKE SPECIAL
For: SYSTEM AND METHOD FOR VERIFYING A	:	(Pre-First Action
FINANCIAL INSTRUMENT	:	Interview)

This is a decision on applicant's petition filed August 19, 2004, to have this application made Special under MPEP 708.02 and the request for a Pre-First Office interview.

The petition and request meets the requirements of 37 CFR 1.102 and the Pilot Program announced March 31, 2004, and consequently, they are both granted.

This application is being forwarded to the examiner assigned to the case, who will call applicant within sixty days of the mailing of this decision to arrange for an interview which may be in person or by telephone. If you have not heard from the examiner within that time period, please contact the undersigned at 703 308-1020.

The examiner will prepare and have a First Office Action ready for mailing within thirty days of the date of the Interview.

John J. Love, Director
Technology Center 3600
703 308-1020

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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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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

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DEC 17 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
John N. Feder et al :
Application No. 09/901,956 :
Filed: June 9, 2001 :
Attorney Docket No. 8907-091-999 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed June 30, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 1, 2004.

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

This matter is being forwarded to the Publishing Division.

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

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Paper No. 22

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Pather et al :
Application No. 09/901,983 : ON PETITION
Filed: July 10, 2001 :
Attorney Docket No. CIMA 3.0-036 :

This is a decision on the petition, filed October 24, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 3, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1615 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

Mail Date: 04/20/2010

Applicant	: Walter H. Mawby	: DECISION ON REQUEST FOR
Patent Number	: 7581363	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/902,023	: OF WYETH
Filed	: 07/10/2001	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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NOV 2 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
Mark J. Chambers, et al.
Application Serial No.: 09/902,051
Filed: July 10, 2001
For: **CMOS DC OFFSET CORRECTION CIRCUIT WITH PROGRAMMABLE HIGH-PASS TRANSFER FUNCTION**

SUA SPONTE
DECISION WITHDRAWING
HOLDING OF ABANDONMENT

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

A review of the subject application reveals that the Board of Patent Appeals and Interferences mailed a decision affirming the examiner's rejection of all claims, i.e., 1-10 on October 26, 2005. On November 4, 2005, the examiner mailed a Notice of Abandonment.

MPEP §1214, Procedure Following Decision by Board, states in part:

> 37 CFR 1.197. Action following decision.
>
> > (c) Termination of proceedings. Proceedings are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except: (1) Where claims stand allowed in an application or (2) Where the nature of the decision requires further action by the examiner. The date of termination of proceedings is the date on which the appeal is dismissed or the date on which the time for appeal to the court or review by civil action (§ 1.304) expires. If an appeal to the court or a civil action has been filed, proceedings are considered terminated when the appeal or civil action is terminated. An appeal to the U.S. Court of Appeals for the Federal Circuit is terminated when the mandate is received by the Office. A civil action is terminated when the time to appeal the judgment expires.
>
> The time for seeking review of a decision of the Board by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia is the same for both tribunals, that is, 2 months, or 2 months with the extension provided by 37 CFR 1.304 in the event a request for rehearing is timely filed before the Board, or as extended by the Commissioner. See MPEP § 1216. When the time for seeking court review (plus 2 weeks to allow for information as to the filing of an appeal or civil action, if any, to reach the examiner) has passed without such review being sought, the examiner must take up the application for consideration. [emphasis added]

It is apparent from the review of the application, that the examiner was over zealous in mailing a Notice of Abandonment prior to the expiration of the time period for seeking review.

Therefore, although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. Any inconvenience caused petitioner is regretted.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

John P. Wagner, Jr.
Wagner Murabito & Hoa LLP
2 N. Market St., 3rd Floor
San Jose, CA 95113

MAILED

MAR 06 2002

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

In re Application of	)	
ANNAPRAGADA	)	
Application No. 09/902,056	)	DECISION ON REQUEST TO
Filed: July 9, 2001	)	WITHDRAW FROM RECORD
For: A Method of Improving Adhesion...	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, 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 request is signed by John P. Wagner, Jr. on behalf of himself and all attorneys of record.

The request is GRANTED.

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

M. L. Gellner

Michael L. Gellner

Special Program Examiner
Technology Center 2800 - Semiconductor,
Electrical, Optical Systems & Components

cc: Philips Electronics North American Corp.
12521 Avenue of the Americas
New York, NY 10020

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/902,056	07/09/2001	Rao Venkateswara Annapragada	VLSI-3402.DIV.1

CONFIRMATION NO. 9824

OC000000007587062

WAGNER, MURABITO & HAO LLP
Two North Market Street, Third Floor
San Jose, CA 95113

Date Mailed: 03/06/2002

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2002.

- 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.

Renee Preston

RENEE M PRESTON
2800 (703) 308-2043

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/902,056	07/09/2001	Rao Venkateswara Annapragada	VLSI-3402.DIV.1

CONFIRMATION NO. 9824

OC000000007587067

PHILIPS ELECTRONICS NORTH AMERICAN CORPORATION
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1104

Date Mailed: 03/06/2002

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/12/2002.

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

Renee Preston

RENEE M PRESTON
2800 (703) 308-2043

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HELLER EHRMAN WHITE & MCAULIFFE
1717 RHODE ISLAND AVE, NW
WASHINGTON, DC 20036-3001

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of
Joseph Weinberger et al
Application No. 09/902,066
Filed: July 10, 2001
Attorney Docket No. 118-004F

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant 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 applicants are 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 Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2624 for appropriate action on the amendment filed April 25, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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HELLER EHRMAN LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of
Joseph Weinberger et al.
Application No. 09/902,066
Filed: July 10, 2001
Attorney Docket No. **118-004F**

ON PETITION

This is a decision on the petition filed January 11, 2008, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned July 3, 2007, for failure to file a timely response to the Office action in accordance with *Ex parte Quayle*,[2] mailed on April 30, 2007, which set a two (2) month period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 11, 2008 on even date with the filing of the instant petition.

The petition fee in the amount of $1540.00 has been applied to the finance records for the instant patent application.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being 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.

---

[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)).

[2] 1935 C.D. 11, 453 O.G. 213.

The amendment in response to the Office Action filed April 30, 2007 will be referred to Technology Center 2625 for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

ROBERT GROOVER
GROOVER & HOLMES
ONE GALLERIA TOWER, SUITE 1950
13355 NOEL ROAD
DALLAS, TX 75240

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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St. Onge Steward Johnston & Reens, LLC
986 Bedford Street
Stamford, CT 06905-5619

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,832,986	:	
Issue Date: December 21, 2004	:	
Application No. 09/902,081	:	ON PETITION
Filed: July 10, 2001	:	
Attorney Docket No. 02581-P0392A	:	

This is a decision on the petition filed June 2, 2005, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patrick C. Keane, Esquire
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

In re Patent of Richard Kirchofer et al. : DECISION ON PETITION
PATENT NO. 7,009,557
SERIAL NO. 09/902,095
FILED: March 7, 2006
FOR: INTERFERENCE REJECTION
GPS ANTENNA SYSTEM

This is a decision on the petition filed September 12, 2008 to correct inventorship under 37 CFR 1.324.

The petition is Granted.

The patented file is being forwarded to Certificates of Correction Branch for issuance of a certificate naming the actual inventors.

Thomas H. Tarcza
Supervisory Patent Examiner
Art Unit 3662
571-272-6979

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 1/12/09 Paper No.: _____

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 7009557

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:

Thomas A Dixey
SPE

3662
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Certificate

Patent No. 7,009,557
Patented : March 7, 2006

On petition requesting issuance of a certificate of inventorship pursuant to 35USC 256, it has been found that the above-identified patent, through error and without deceptive intent improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Richard Kirchofer
Ray Nielsen
Arleigh B. Baker

Thomas H. Tarcza
Supervisory Patent Examiner
Art Unit 3662

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DIW 11-01

Paper No. 4

RADER, FISHMAN & GRAUER, P.L.L.C
SUITE 501
1233 20TH STREET, NW
WASHINGTON, DC 20036

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JAN 08 2002

OFFICE OF PETITIONS

In re Application of	:
Shigeyuki Kuroda	:
Application No. 09/902,112	: DECISION GRANTING PETITION
Filed: 11 July, 2001	:
Attorney Dkt. No. KOM-137/INO	:

This is a decision on the "Petition Under 37 CFR 1.181" filed on 29 October, 2001, requesting that the above-identified application be accorded a filing date of 11 July, 2001, with a complete specification, including at least one claim, as a part of the original disclosure.

On 11 July, 2001, the application was filed.

On 28 August, 2001, Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application" stating that the specification was missing and that specification, including at least one claim, was required.

On 29 October, 2001, the present petition, was filed. Petitioner argues that 22 pages of specification, including Claims 1-5, and one (1) page of abstract, were filed with the other application papers on 11 July, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, on 29 October, 2001, petitioner supplied a copy of two postcard receipts. One postcard receipt shows an Office date stamp of 11 July, 2001, and acknowledges receipt of, *inter alia*, 18 pages of specification, three (3) pages containing Claims 1-5, and one (1) page of abstract. The other postcard receipt itemizes the same papers and bears an Office date stamp of 11 July, 2001, and the above-identified application number, but states on the reverse side of the postcard that the PTO did not receive the specification, claims, or abstract. Petitioner requests that the application, including 21 pages of specification, including Claims 1-5, and one (1) page of abstract, be accorded a filing date of 11 July, 2001.

The Office is construing the postcard acknowledging receipt of the specification, claims, and abstract as the first postcard. Apparently, the specification, claims, and abstract became disassociated with the other application papers filed on 11 July, 2001, after receipt in the USPTO. Petitioner **must** inform the Office if this is not a correct interpretation.

A review of the record reveals that no pages of specification or abstract are located among the application papers deposited on 11 July, 2001. However, the evidence is convincing that the application papers deposited on 11 July, 2001, included 21 pages of specification, including five (5) claims, and one (1) page of abstract, which were subsequently misplaced in the Office. Therefore, the application, is entitled to a filing date of 11 July, 2001.

The Notice of Incomplete Nonprovisional Application mailed on 28 August, 2001, was sent in error is hereby vacated.

In view of the above, the petition is granted. No petition fee is necessary and none has been charged.

The application will be processed and examined using the copy of the specification, including the claims, and abstract supplied on 29 October, 2001. The copy of the seven (7) sheets of drawings supplied on 29 October, 2001, will not be processed or entered, but will be retained in the application file.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of 11 July, 2001, using the application papers filed on 11 July, 2001, and the 21 pages of specification, including the claims, and one (1) page of abstract supplied on 29 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 Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of Kane et al. Application No. 09/902,144 Filed: July 10, 2001 Title: Methods, Functional Data, and Systems for Optimizing Product Factors	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 24, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned January 25, 2006 for failure to timely reply to the final Office Action mailed on October 24, 2005. The final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed April 5, 2006.

Petitioner asserts that a reply to the final Office Action provided a three month extendable period of reply. Thus the maximum extendable time period did not expire until April 25, 2006. On petition, petitioner has submitted a timely request for three month extension of time and appropriate fee, an amendment and a Notice of Appeal.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3600 for further processing of the amendment submitted on April 24, 2006.

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

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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PRIEST & GOLDSTEIN, PLLC
5015 SOUTHPARK DRIVE
SUITE 230
DURHAM NC 27713

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of
William FARROW
Application No. 09/902,160
Filed: July 11, 2001
Attorney Docket No. Farrow 39

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 18, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 19, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 18, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 2634 for appropriate action.

Frances Hicks

Frances Hicks
Lead 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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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH VA 22040-0747

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SEP 14 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Inga Laursen et al :
Application No. 09/902,174 :
Filed: July 10, 2001 :
Attorney Docket No. 0459-0636P :

This is a decision on the petition, filed September 13, 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 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1644 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : September 14, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/902,174**

Applicant(s) : Inga Laursen et al
Application No. : 09/902,174
Filed : July 10, 2001

The above-identified application has been assigned Patent No. 6,793,922 and an issue date of September 21, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 21, 2004:

"All reference to Patent No. 6,793,922 to Inga Lauren et al of Denmark for PROCESS FOR PRODUCING IMMUNOGLOBULINS FOR INTRAVENOUS ADMINISTRATION AND OTHER IMMUNOGLOBULIN PRODUCTS appearing in the Official Gazette of September 21, 2004 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE, SUITE 1600
NEW YORK, NY 10110

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SEP 2 2 2005

OFFICE OF PETITIONS

In re Application of	:
Henrik Bisgard-Frantzen et al	:
Application No. 09/902,188	: DECISION ON PETITION
Filed: July 10, 2001	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 4318.224-US	:

This is a decision on the petition, filed September 21, 2005, 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**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a concurrently filed application under the provisions of 37 CFR 1.53(b). See 37 CFR 1.313(c)(3).

The application is withdrawn from issue, and the abandonment is hereby recognized.

Petitioner is advised that the filing of new application papers should not accompany a petition to withdraw from issue since the processing of these papers is handled by a different branch of the Office. *Note* 37 CFR 1.4(c). Nevertheless, the application papers, consisting of 1 page of a Utility Patent Application Transmittal, 1 page of a Fee Transmittal, 70 pages of a specification, four pages of claims (claims 1-29), Abstract, five pages of drawings (Figures 1-5), 15 pages of a Sequence Listing (pages 71-85), two pages of a Combined Declaration for Patent Application and Power of Attorney, and three pages of an Application Data Sheet, will be forwarded to the Office of Initial Patent Examination for processing and assignment of an application number and filing date. Inquiries concerning the processing of the application papers should be directed to (703) 308-1202.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES
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TRADEMARK OFFICE

MAY 23 2002

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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#9

FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of Michael Conor Minogue et al Serial No.: 09/902,225 Filed: July 10, 2001 For: Electrotheraphy Device and Method	DECISION ON PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed April 17, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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Paper No. 18

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

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OCT 2 4 2003

OFFICE OF PETITIONS

In re Application of
Michael Conor Minogue et al
Application No. 09/902,225
Filed: July 10, 2001
Attorney Docket No. NA

ON PETITION

This is a decision on the petition, filed by facsimile transmission on October 24, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 3, 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 3762 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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

#10

MAY 22 2002

FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of Michael Conor et al Filed: July 10, 2001 For: An Electrotherapy Device and Method	DECISION ON PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed July 10, 2001, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

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

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

Should there be any questions with regard to this letter please contact Carol Lake by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES
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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUN 12 2002

FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of	:	
Michael Conor Minogue	:	
Serial No.: 09/902,281	:	CORRECTION
Filed: July 10, 2001	:	DECISION ON PETITION
For: An Electrotherapy Device and Method	:	

This is in response to applicants' petition filed April 9, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Box Expedited Design, Washington, DC 20231, or by telephone at (703)308-0873 or by facsimile transmission at (703)308-3139.

John E. Kittle

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES
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AUG 21 2003

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WASHINGTON, D.C. 20231
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#9

FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of	:	
Michael Conor Minogue	:	DECISION ON
Serial No.: 09/902,287	:	PETITION TO MAKE SPECIAL
Filed: July 10, 2001	:	
For: An Electrotherapy Device and Method	:	

This is in response to applicants' petition received March 14, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 03 2009

OFFICE OF PETITIONS

In re Application of	:
Michael Conor Minogue et al	:
Application No. 09/902,287	: DECISION ON PETITION
Filed: July 10, 2001	: UNDER 37 CFR 1.78(a)(3)
For: ABDOMINAL BELT WITH ADJUSTABLE	:
ELECTRODES	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 8, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of priority to prior-filed PCT application number PCT/IE00/00004 filed January 11, 2000.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

A Certificate of Correction is needed because the benefit claim was not on the front page of the patent. Further, the above petition is necessary because applicant did not include a proper benefit claim (in the first sentence of the specification or an ADS) within the required time period. The amendment to the specification was added after the time period and was entered prematurely without the filing of the above petition.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and the submission of a Certification of Correction to correct the above matters are required.

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

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

DRINKER, BIDDLE & REATH LLP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE – 10TH FL.
NEW YORK NY 10151

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Application of	:
Michael Conor Minogue et al	:
Application No. 09/902,287	: DECISION ON PETITION
Filed: July 10, 2001	: UNDER 37 CFR 1.78(a)(3)
For: ABDOMINAL BELT WITH ADJUSTABLE	:
ELECTRODES	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 8, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of priority to prior-filed PCT application number PCT/IE00/00004 filed January 11, 2000.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

As stated in the decision mailed August 3, 2009, a Certificate of Correction is needed because the benefit claim was not on the front page of the patent. Further, the above petition is necessary because applicant did not include a proper benefit claim (in the first sentence of the specification or an ADS) within the required time period. The amendment to the specification was added after the time period and was entered prematurely without the filing of the above petition.

The Certification of Correction submitted with the above petition on March 8, 2010 list PCT Application No. PCT/IE00/00004 as a foreign application instead of as: This application (09/902,287) is a continuation of PCT/IE00/00004 filed January 11, 2000, as to a benefit claim under 35 U.S.C. §§1.20 and 365(c). If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and the submission of a Certification of Correction to correct the above matters are required.

Petitioner should note that the present application cannot claim foreign priority to the PCT application since the PCT application was filed more than one year prior to the filing of the present application.

Additionally, the Copy of the Power of Attorney submitted with the above petition is not proper because the title of the person signing on behalf of the assignee and a printed name is not provided. The Office is not sure who signed the above.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

DRINKER, BIDDLE & REATH LLP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 02-03

Paper No. 7

KENNETH P. GLYNN, ESQ.
24 MINE STREET
FLEMINGTON NJ 08822-1598

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FEB 04 2003

OFFICE OF PETITIONS

In re Application of	:	
Jan et al.	:	
Application No. 09/902,317	:	ON PETITION
Filed: 10 July, 2001	:	
Attorney Docket No. IPC-110A	:	

This is a decision on the petition filed 18 December, 2002, under 37 CFR 1.137(a)[1] to revive the above-identified application which is first treated as a petition to withdraw the holding of abandonment.

The petition is **dismissed**.

The application became abandoned on 10 July, 2002, for failure to timely reply to the non-final Office action mailed on 9 April, 2002, 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 27 November, 2002.

Petitioners assert that the Office action mailed on 9 April, 2002, was never received.

---

[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)).

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioners assert that the Notice of Allowance and Issue Fee Due mailed on 9 April, 2002, 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.[2] 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).

The showing of record is insufficient to warrant withdrawal of the holding of abandonment. Petitioners have not presented 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. As the required showing has not been presented, the petition must be dismissed.

REQUIREMENT FOR REPLY

A review of the record reveals that petitioner has not submitted the reply required by the non-final Office action mailed on 9 April, 2002. In this regard, petitioner should note that an appropriate reply to a non-final rejection an amendment, request for reconsideration, or a continuing application. Any renewed petition must be accompanied by petitioner's reply to the Office action mailed on 9 April, 2002. A courtesy copy of the Office

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[2] 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).

action has been included with this decision for assistance in preparing petitioners' reply.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

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

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[3] 35 U.S.C. § 133.

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

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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]

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

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

revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Should petitioners decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $650.00 (small entity).

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

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)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encls: Office action mailed on 9 April, 2002
Form PTO/SB/64
Privacy Act Notification

UNITED STATES 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 07-03

Paper No. 10

KENNETH P. GLYNN, ESQ.
24 MINE STREET
FLEMINGTON NJ 08822-1598

COPY MAILED

JUL 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Jan et al.	:	
Application No. 09/902,317	:	ON PETITION
Filed: 10 July, 2001	:	
Attorney Docket No. IPC-110A	:	

This is a decision on the renewed petition filed on 9 July, 2003, under 37 CFR 1.137(a)[1] to revive the above-identified application.

The petition is again **dismissed**.

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

The application became abandoned on 10 July, 2002, for failure to timely reply to the non-final Office action mailed on 9 April, 2002, 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 27 November, 2002. The petition filed on 18 December, 2002, was dismissed on 4 February, 2003.

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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)).

Petitioners again assert that the Office action mailed on 9 April, 2002, was never received.

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 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

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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).

[4] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

Petitioners assert that the Notice of Allowance and Issue Fee Due mailed on 9 April, 2002, 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.[6] 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 again assert that the Office action mailed on 9 April, 2002, was never received, but have again 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. As the required showing has not been presented, the petition must be again dismissed.

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

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

[6] 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).

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).

Should petitioners decide to file a petition under 37 CFR 1.137(b), the additional petition fee due would be $650.00 (small entity).

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

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

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

By FAX: (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)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encls: Form PTO/SB/64
Privacy Act Notification

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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www.uspto.gov
DIW 08-03

Paper No. 13

KENNETH P. GLYNN, ESQ.
24 MINE STREET
FLEMINGTON NJ 08822-1598

COPY MAILED

AUG 05 2003

OFFICE OF PETITIONS

In re Application of	:	
Jan et al.	:	
Application No. 09/902,317	:	ON PETITION
Filed: 10 July, 2001	:	
Attorney Docket No. IPC-110A	:	

This is a decision on the twice renewed petition filed on 25 July, 2003, under 37 CFR 1.137(a)[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 10 July, 2002, for failure to timely reply to the non-final Office action mailed on 9 April, 2002, 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 27 November, 2002. The petition filed on 18 December, 2002, was dismissed on 4 February, 2003. The renewed petition filed on 9 July, 2003, was dismissed on 17 July, 2003.

The application is restored to pending status.

As petitioners previously paid the petition fee on 9 July, 2003, the petition fee paid on 25 July, 2003, is unnecessary. Petitioners may request a refund by writing to the Office of

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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)).

Finance, ATTN: Refund Section. A copy of this decision should accompany petitioners' request. Alternatively, petitioners may request that the $55.00 be applied to any other fees due in this or another patent application.

The application is being forwarded to Technology Center 1700 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte Michael Lee Vatter,
Jorge Max Sunkel, and
Curtis Bobby Motley

Appeal No. 2004-1788
Application No. 09/902,321

MAILED
APR 17 2007
U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

DECISION ON PETITION

This is a decision on the Request to Vacate Decision on Appeal Due to Filing of RCE, filed February 9, 2006, (Request), requesting that the "decision [of the Board of Patent Appeals and Interferences, dated May 20, 2005] be vacated in view of an RCE filed on March 31, 2005." The Request will be treated as a petition under 37 C.F.R. § 1.181. Since the Request concerns an action of the Board, it will be decided by the Chief Administrative Patent Judge pursuant to MPEP § 1002.02(f)(4)(b).

FINDINGS OF FACT

1. The present application was published on February 14, 2002, Publication No. 2002-0018760 A1.

2. This appeal was docketed at the Board on August 3, 2004.

3. Appellants filed a waiver of oral hearing on March 15, 2005. This was the last communication Appellants submitted to the Board in this application.

4. Appellants filed an RCE on March 31, 2005.

5. The Board issued a decision on the appeal on May 20, 2005.

6. Appellants filed the Request on February 9, 2006.

DISCUSSION

MPEP § 1215.01 states:

> To avoid the rendering of decisions by the Board in applications which have already been refiled as continuations, applicants should promptly inform the Chief Clerk of the Board in writing as soon as they have positively decided to refile or to abandon an application containing an appeal awaiting a decision. *Applicants also should advise the Board when an RCE is filed in an application containing an appeal awaiting decision.* Failure to exercise appropriate diligence in this matter may result in the Board refusing an otherwise proper request to vacate its decision.

(emphasis added).

Appellants have never advised the Board of the March 31, 2005 filing of the RCE.

Procedurally, "the filing of an RCE will be treated as a withdrawal of the appeal." *Id.* Thus, the appeal in the present application was withdrawn on March 31, 2005. Since the appeal was effectively withdrawn before the Board rendered its decision on May 20, 2005, as a matter of law that decision is of no force or effect.

However, since the present application was published on February 14, 2002, the Board's decision has been publicly available since it was rendered on May 20, 2005. Thus, even if the decision were to be vacated, any such action would not alter the effect or availability of the decision.

Accordingly, the Request is **DENIED** as moot, and the application is returned to the Examiner for consideration of the RCE.

Michael R. Fleming
Chief Administrative Patent Judge
Board of Patent Appeals and Interferences

Kenya T. Pierre
The Proctor & Gamble Company
Intellectual Property Division
Winton Hill Technical Center – Box 161
6110 Center Hill Avenue
Cincinnati, OH 45224

Tel: (513) 626-4055
Fax: (513) 626-1355

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

PHILIP J. CAMPAIGNE
101 SLOUGH ROAD
HARVARD, MA 01451

COPY MAILED

DEC 03 2002

OFFICE OF PETITIONS

In re Application of	:	
Philip James Campaigne	:	
Application No. 09/902,333	:	ON PETITION
Filed: July 10, 2001	:	
Attorney Docket No. 5/00	:	

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 Notice to File Corrected Application Papers (Notice) mailed August 27, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 28, 2001.

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

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

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

COPY MAILED

JAN 15 2002

OFFICE OF PETITIONS

LUIS M. ORTIZ
P.O. BOX 7720
DALLAS, TX 75209

In re Application of
Ortiz, et al.
Application No. 09/902,348
Filed: July 10, 2001
Attorney Docket No. O&L 1000-1058

DECISION DISMISSING PETITION

This is a decision on the petition entitled, " PETITION UNDER 37 CFR 1.17(h)," filed October 1, 2001, requesting that the above-identified application be accorded a filing date of July 10, 2001.

The application was deposited on July 10, 2001. On August 24, 2001, the Office of Initial Patent Examination mailed a " Notice of Omitted Items in a Nonprovisional Application" informing petitioners that drawing Figure 18 appeared to be missing. The Notice set a two month nonextendable period for reply from the August 24, 2001 mailing date of the Notice.

In response to the Notice, petitioners timely filed the present petition on October 1, 2001. Petitioners request a July 10, 2001 filing date on the basis that the entire application, including the missing Figure 18, was received in the Patent and Trademark Office (PTO) on July 10, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office generated barcode with July 10, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 19 sheets of drawings

It is noted that the date-stamped itemized return postcard refers to 19 sheets of drawings. A review of the contents of the file reveals that 19 sheets of drawings were, in fact, filed on July 10, 2001, and are presently in the file. However, **the file contains two copies of page 14/19 depicting Figure 16, but no page 16/19 depicting Figure 18**. Thus, the official file shows that no sheet of drawing containing Figure 18 was filed on July 10, 2001.

Since the petition does not request that the application be accorded the date of receipt of the sheet of drawing containing Figure 18 as the filing date (see "Notice" mailed August 24, 2001), the application will be processed with a filing date of July 10, 2001, using the 19 sheets of drawing filed on that date. Figure 18, submitted with the instant petition on October 1, 2001, will not be part of the original disclosure and will not be entered.

An amendment canceling the references to Figure 18 in the specification should be filed prior to the first Office action in order to avoid further delays in the examination of the application.

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.

The application will be returned to Initial Patent Examination Division for further processing with a filing date of July 10, 2001, and for indication on the file wrapper label that 19 sheets of drawings was present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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

cc: ORTIZ & LOPEZ, P.L.L.C.
4054 MCKINNEY AVE.
SUITE 300
DALLAS, TX 75204

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & BOTTS, LLP
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

JUN 14 2004

OFFICE OF PETITIONS

In re Application of :
Irwin Gelman :
Application No. 09/902,432 : ON PETITION
Filed: July 10, 2001 :
Attorney Docket No. A30558-A-FWC-A :

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

The petition is **GRANTED.**

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

The application file is being forwarded to Technology Center AU 1632 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SOFER & HAROUN, L.L.P.
317 MADISON AVE.
SUITE 910
NEW YORK NY 10017

COPY MAILED

MAY 06 2008

OFFICE OF PETITIONS

In re Application of
Michael Pascazi :
Application No. 09/902,466 : ON PETITION
Filed: July 10, 2001 :
Attorney Docket No. **844-002** :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed June 14, 2007, 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 August 18, 2006. A response was filed February 23, 2007 with a three month extension of time request and a February 20, 2007 certificate of mail date, but by Advisory Action of April 19, 2007, petitioner was advised that the response did not place the application in condition for allowance. The instant petition preceded the mailing of the Notice of Abandonment which was mailed July 13, 2007.

Petitioner has submitted a Request for Continued Examination (RCE) with a request that the previously filed February 23, 2007 amendment be accepted as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2617 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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Paper No. 11

PATENT FOCUS, INC
C/O RICHARD C. MCCOMAS
208 MARK LN
SMYRNA GA 30082

COPY MAILED

FEB 10 2004

OFFICE OF PETITIONS

In re Application of
Jerry C. Scott
Application No. 09/902,618
Filed: July 12, 2001
Attorney Docket No. 4705

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 31, 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 at midnight August 31, 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 Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to Technology Center 3700, Art Unit 3727.

Cheryl Gibson-Baylor

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 16

ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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FEB 05 2003

OFFICE OF PETITIONS

In re Application of
Jun Koyama et al
Application No. 09/902,622
Filed: July 12, 2001
Attorney Docket No. 740756-2339

ON PETITION

This is a decision on the petition, filed February 4, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 23, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 24

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SEP 1 2 2003
OFFICE OF PETITIONS

ERIC ROBINSON
PMB 555
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

In re Application of
Jun Koyama et al
Application No. 09/902,622
Filed: July 12, 2001
Attorney Docket No. 740756-2339

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

This is a decision on the petition, filed September 11, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

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SEP 1 9 2002

OFFICE OF PETITIONS

Applicant: Jeanne-Rose et al.
Appl. No.: 09/902,660
Filing Date: July 12, 2001
Title: USE OF AN ORGANOMETALLIC COMPOUND TO PROTECT AND/OR STRENGTHEN A KERATIN MATERIAL, AND TREATMENT PROCESS
Attorney Docket No.: 05725.0926-00
Pub. No.: US 2002/0041856 A1
Pub. Date: April 11, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on June 11, 2002, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

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
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

Paper No. 6

DOWELL & DOWELL PC
SUITE 309
1215 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

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DEC 17 2001

OFFICE OF PETITIONS

In re Application of :
Ould-Brahim, Wright, and Gleeson :
Application No. 09/902,683 : DECISION ACCORDING STATUS
Filed: 12 July, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 71493-1004 /jlo:

This is in response to the petition filed under 37 CFR 1.47(a) on 28 November, 2001.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Bryan Gleeson, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the affidavit of Stuart Mark Budd establishes that the non-signing inventor was sent a copy of the application but failed to sign and return the declaration. Additionally, Mr. Budd attempted to contact the non-signing inventor by phone, but was unable to obtain a phone number for him.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the

address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DEC 17 2001

OFFICE OF PETITIONS

Bryan Gleeson
19500 Pruneridge Avenue #3302
Cupertino, CA 95014

In re Application of
Ould-Brahim et al.
Application No. 09/902,683
Filed: 12 July, 2001
For: PIGGYBACKING VPN INFORMATION IN BGP FOR NETWORK BASED VPN ARCHITECTURES

Dear Mr. Gleeson:

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

DOWELL & DOWELL PC
SUITE 309
1215 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

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DICKSTEIN SHAPIRO MORIN & OSHINSKY, LLP
2101 L Street, NW
Washington, DC 20037

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Li, Li et. al.	:	
Application No. 09/902,691	:	ON PETITION
Filed: July 2, 2001	:	
Attorney Docket No. M4065.0159/P159-A	:	

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

The application became abandoned for failure to reply to the non-final Office action mailed July 8, 2004. A Notice of Abandonment was mailed February 28, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 10/969,568.

The application file is being referred to Technology Center Art Unit 2815 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 14

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

In re Application of
Kunihiko Fukui.
Application No. 09/902,711
Filed: July 12, 2001
For: **OIL EXCHANGE TIMING INDICATING APPARATUS FOR VEHICLES**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment filed November 25, 2003 pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

This application became abandonment for failure to timely file a proper response to the final office action mailed December 11, 2002 (see Paper No. 12) which set a shortened statutory period of three (3) months to reply. That period lapsed without reply, rendering this application abandoned as March 11, 2003. A Notice of Abandonment was mailed on October 1, 2003.

Petitioner alleges to have timely filed a response to the final office action on April 17, 2003. To support this position, Petitioner has included with the instant petition, a copy of the first postcard receipt, for the filing of the Reply and a Notice of Appeal (with a petition for a two-month extension of time) on April 17, 2003 and a copy of the second postcard receipt for filing of an Appeal Brief (with a petition for two-month extension of time), and its transmittal, on August 18, 2003.

The original correspondence filed was not matched with the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the 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 is being forwarded to the Technology Center's technical support staff for entry of the copy of the amendment submitted with the petition. From there, the application file will be forwarded to the examiner for appropriate action in due course.

Jin F. Ng, Director
Technology Center 2600
Communications
(703) 305-9700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 9

DATE : June 24, 2004

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction on Patent No.: **6,445,5315**

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

The scope of the claims is changed when making the correction as requested.

Michael J. Tokar
Michael Tokar
Supervisory Patent Examiner
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
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JAN 30 2006

LESLIE A. MOOI
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of	:
Audrey Goddard et al	:
Serial No.: 09/902,713	: DECISION ON PETITION
Filed: 10 July 2001	:
Attorney Docket No.: 39780-1618P2C2	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed 17 January 2006 requesting (1) that the rejections containing the six new references which have been used by the examiner in the Examiner's Answer be designated as new grounds of rejection; (2) that the examiner provide a corrected Examiner's Answer which identifies the rejections as new grounds of rejection; and (3) that prosecution be reopened because of these new grounds of rejection.

BACKGROUND

On 02 November 2004, following issuance of a Final Office action, applicants filed a Request for Continued Examination. The examiner reopened prosecution and mailed to applicants a first action FINAL rejection on 13 January 2005. Applicants filed a Notice of Appeal on 13 June 2005 and an Appeal Brief on 13 September 2005. The examiner mailed to applicants an Examiner's Answer on 15 November 2005. Applicants filed a Reply Brief on 17 January 2006 along with a request for an Oral Hearing and this petition.

DISCUSSION

In the Examiner's Answer the examiner relied extensively on six new references in order to support the lack of utility and lack of enablement rejections. These new references are:

Hittelman, 2001, Ann NY Acad. Sci. 952: 1- 12.
LaBaer, 2003, Nature Biotechnology 21: 976 - 977.
Chen et al., 2002, Molecular and Cellular Proteomics 1 : 304 - 313.
Gygi et al., 1999, Mol. Cell. Biol. 19 : 1720 - 1730.
Lian et al., 2001, Blood 98 : 513 - 524.
Fessler et al., 2002, J. Biol. Chem. 277 : 31291 - 31302.

The statutory basis of the rejections (35 U.S.C. 101 and 112, first paragraph) in the Examiner's Answer did not change from the FINAL office action mailed to applicant on 14 September 2004. However, it is clear that the examiner used the additional six new references to reinforce these rejections and rebut more thoroughly applicants' arguments. While applicants did respond to these new arguments and new references raised by the examiner in the Examiner's Answer in their Reply Brief, they argue that they have been placed at a disadvantage because they have not been able to present substantive evidence of their own in response to these new references and arguments without reopening of prosecution being granted.

Applicants' points of argument are well taken and will be accommodated accordingly.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting (1) that the rejections containing the six new references which have been used in the Examiner's Answer be designated as new grounds of rejection; (2) that the Examiner provide a corrected Examiner's Answer which identifies the rejections as new grounds of rejections; and (3) that the FINALITY be withdrawn and that prosecution be reopened because of these new grounds of rejection are **GRANTED-IN-PART.**

Applicants' first request that the rejections in the Examiner's Answer be designated "new grounds of rejection" is **GRANTED**.

Applicants' second request has been effectively granted by this Decision on Petition designating the rejections in the Examiner's Answer to be "new grounds of rejection." The further request for the corrected Examiner's Answer is deemed to be moot in view of this Decision on Petition and therefore, **DISMISSED**.

Applicants' third request to have the FINALITY of the application withdrawn and prosecution reopened is **GRANTED** as this is a proper request under the Rules of Prosecution when a new ground of rejection is advanced in an Examiner's Answer. (Alternatively, applicants may rely solely on their Reply Brief and proceed to the Board.)

In view of applicants' expressed limited ability to present new evidence, as noted above, applicants are given TWO MONTHS from the mailing date of this Decision within which to submit any additional arguments, exhibits, affidavits or other evidence which they consider necessary in order to rebut the examiner's new grounds of rejection set forth in the Examiner's Answer. Failure to make any submission will be taken as applicants' agreement to rely solely on the already submitted Reply Brief

This application is being returned to the examiner for consideration of the Reply Brief which will be treated as a reply to a new "Non-Final" rejection set forth in the Examiner's Answer and further action not inconsistent with this decision.

Applicants have been charged a fee of $130.00 for this petition. However, since there should be no charge for this petition, this $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Should there by any questions regarding this decision, please contact Special Program Examiner, 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

George C. Elliott
Director, Technology Center 1600

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Heller, Ehrman, LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

In re Application of	:	
Audrey Goddard	:	
Application No. 09/902,713	:	DECISION ON PETITION
Filed: July 10, 2001	:	TO WITHDRAW
Attorney Docket No. 10466/71	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 8, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Leslie B. Overman does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Goodwin Procter, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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RALPH A. DOWELL
DOWELL & DOWELL P.C.
2111 EISENHOWER AVENUE, SUITE 406
ALEXANDRIA, VA 22314

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of
BEAUCHAMP, Fern
Application No. 09/902,718
Filed: July 12, 2001
Attorney Docket No. 409P1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 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 July 11, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 11, 2006 . Accordingly, the date of abandonment of this application is July 12, 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 $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Monica Graves at (571) 272-7253.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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Paper No. 06

MAY 5 2003

John W. Ryan
Wilmer Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

In re Application of:	:	
Ramon Vega	:	
Application No. 09/902,722	:	DECISION ON REQUEST TO
Filed: July 12, 2001	:	WITHDRAW FROM RECORD
For: MULTI-PURPOSE PRINTER	:	
DEVICE	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 26, 2003.

A review of the application file record indicates that the power of attorney was and still is not with the attorneys named in the request.

For the above-stated reason, the request is dismissed as moot.

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

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

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

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

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JAN 30 2009

OFFICE OF PETITIONS

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

In re Application of
Aviad Zlotnick
Application No. 09/902,733
Filed: July 12, 2001
Attorney Docket No: ZLOTNICK=2

ON PETITION

This is a decision on the petition, filed November 3, 2008, to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 16, 2008. A Notice of Abandonment was mailed on October 29, 2008. On November 3, 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 payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; 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

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HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD RD
MENLO PARK CA 94025-3506

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FEB 11 2005

OFFICE OF PETITIONS

In re Application Ashkenazi, et al. Application No. 09/902,736 Filed: July 10, 2001 Attorney Docket No. 39780-1618 P2C45	: : : : :	DECISION ON PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 13, 2004, requesting correction of the patent term adjustment (PTA) indicated on the patent from one hundred fifteen (115) days to two hundred forty-two (242) days.

The application for patent term adjustment is **GRANTED** to the extent indicate herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred forty (240) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 10, 2003, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is one hundred fifteen (115) days. On February 13, 2004, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred forty-two (242) days.

Applicants assert entitlement to a patent term adjustment of two hundred forty-two (242) days on the basis that the PTO improperly assessed Applicants a delay of one hundred twenty-five (125) days for filing a response to an Office action on September 29, 2003, when that response was a copy of a previous response filed on May 27, 2003. In addition, Applicants assert that the PTO improperly assessed Applicants a delay of two (2) days for filing the May 27, 2003 response, when a non-final Office action was mailed on February 25, 2003.

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 one hundred fifteen (115) days based on an adjustment for PTO delay of one hundred sixty-eight (168) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and seventy-four (74) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by Applicants' delays of two (2) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b) and one hundred twenty-five (125) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). The adjustments of 125 and 2 days are at issue.

A review of the application file reveals that the response filed on September 29, 2003, which included an amendment an an IDS, was in fact a copy of a response filed on May 27, 2003. In particular, the September 29, 2003 response included a USPTO date stamped postcard receipt, evidencing that the response was previously filed on May 27, 2003.

In view of the above, it is concluded that the amendment and IDS filed on September 29, 2003 were a copy of an amendment and IDS previously filed on May 27, 2003. As such, no applicant delay should have been assessed.

---

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

With respect to the two (2) days of applicant delay, pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b) an applicant has three months to respond to a notice from the Office. Here, the response was not filed until two (2) days after the three month period. Accordingly, the two (2) days of applicant delay was proper.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **two hundred forty (240) days** (242 days of PTO delay, reduced by 2 days of applicant delay).

The $200 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 08-1641, as authorized.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Howard Zaretsky
ZARETSKY & ASSOCIATES PC
8753 West Runion Drive
Peoria, AZ 85382-6412

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MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of Yaniv SHAPIRA et al Application No. 09/902,770 Filed: July 10, 2001 Attorney Docket No.12420.0003	: : : :	DECISION ON PETITION 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(f) filed July 8, 2003, which is being treated as a petition under 37 CFR1.137(b) to revive the above-identified application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137 (f).

The petition to revive the above-identified application is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country. The filing date of the subsequently filed foreign or international application is July 10. 2002. However, the USPTO was unintentionally not notified of these filings 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. Sect. 122 (b) (2) (B) (iii) and 37 CFR 1.213© for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational 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. Sect. 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. Sect. 122 (b) (2) (B) (I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the

projected publication date was mailed in a separate correspondence to the Applicant.

This application is being forwarded to Technology Center Art Unit 2661 for examination in due course.

Inquiries regarding this communication may be directed to Samuel A. Acquah at (703) 605-5229 or, in his absence, to the undersigned at (703) 308-3865.

BethAnne Dayoan
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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OFFICE OF PETITIONS

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

In re Application of Hejlsberg et al. :
Application No. 09/902,810 : Decision on Petition
Filing Date: July 10, 2001 :
Attorney Docket No. MS1-865US :

This is a decision on the petition filed October 13, 2006, under 37 CFR 1.48(a) to correct the inventorship in the above-identified application and the petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(3), which requires submission of an oath or declaration by the actual inventors.[1]

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **granted**.

The petition under 37 CFR 1.48(a) to correct inventorship is **granted**.

The instant petitions were filed to correct the inventorship by adding inventor Christopher J. Lovett .

Petitioner has met the requirements of 37 CFR 1.48 except for 37 CFR 1.48 which requires "An oath or declaration by the actual inventor or inventors as required by §1.63." However, the petition under 37 CFR 1.183 establishes that justice would be served by waiving the requirement for the originally listed inventor's signature on the supplemental declaration filed October 13, 2006. The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The inventorship of the application will be changed by the addition of Christopher J. Lovett.

Please find enclosed a corrected filing receipt reflecting the corrected inventorship.

The Office of Publications will be informed of the instant decision and will issue the application as a patent in due course.

Petitioner submitted $200 for the petition under 37 CFR 1.47. Since the petition was properly treated under 37 CFR 1.183, a fee of $400 is necessary. Therefore, $200 has been charged to petitioner's deposit account.

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[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

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

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/902,810	07/10/2001	2191	2136	MS1-865US	4	27	13

CONFIRMATION NO. 6062
CORRECTED FILING RECEIPT
OC000000021017149
OC000000021017149

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

Date Mailed: 10/27/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Anders Hejlsberg, Seattle, WA;
Daniel Dedu-Constantin, Redmond, WA;
Erik B. Christensen, Seattle, WA;
Keith W. Ballinger, North Bend, WA;
Mark W. Fussell, Sammamish, WA;
Neetu Rajpal, Redmond, WA;
Nithyalakshmi Sampathkumar, Bellevue, WA;
Omri Gazitt, Redmond, WA;
Stefan H. Pharies, Seattle, WA;
William A. Adams, Bellevue, WA;
Yan Leshinsky, Bellevue, WA;
Chia-Hsun Chen, Redmond, WA;
Christopher J. Lovett, Woodinville, WA;

Power of Attorney: The patent practitioners associated with Customer Number **22801**.

Domestic Priority data as claimed by applicant

Foreign Applications
If Required, Foreign Filing License Granted: 09/13/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US09/902,810

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

APPLICATION PROGRAM INTERFACE FOR NETWORK SOFTWARE PLATFORM

Preliminary Class

717

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other

agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No. 5

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Smith, et al.
Application No.: 09/902,811
Filed: July 10, 2001
Attorney Docket No.: MS1-862US
For: APPLICATION PROGRAM INTERFACE
FOR NETWORK SOFTWARE PLATFORM

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed March 25, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on July 10, 2001 without an executed oath or declaration. Accordingly, on January 25, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring *inter alia* an executed oath or declaration, filing fees, and a surcharge for their late filing.[1]

In response, on March 25, 2002, a declaration executed by 50 of 51 joint inventors, the surcharge, application filing fees, the petition fee, and the instant petition were filed. The petition states that non-signing joint inventor David Bau received a copy of the application, a declaration, and an assignment for the above-identified application, but did not respond to the request that he sign the declaration for the patent 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.

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. David Driver's citizenship has been omitted from the

[1] The sequence listing requirements will not be discussed in this decision.

declaration. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived.

In addition, the declaration contains noninitialed, nondated alteration to Joseph Roxe's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. 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. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Bau is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiencies or inaccuracies relate to signing inventors. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Driver and Mr. Roxe can correct their respective information on a supplemental declaration identifying the entire inventive entity but signed only by them.

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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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OCT 27 2003

OFFICE OF PETITIONS

In re Application of
Smith, et al.
Application No.: 09/902,811
Filed: July 10, 2001
Attorney Docket No.: MS1-862US
For: APPLICATION PROGRAM INTERFACE
FOR NETWORK SOFTWARE PLATFORM

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed October 20, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, David Bau, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the March 25, 2002 petition states that non-signing joint inventor David Bau received a copy of the application, a declaration, and an assignment for the above-identified application, but Mr. Bau did not respond to the request that he sign the declaration for the patent application. 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.

Pursuant to petitioners' authorization, deposit account no. 12-0769 will be charged a $1,480 four month extension of time fee.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2100 for examination in due course.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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DAVID BAU
415 HOWARD ROAD
GLADWYNE PA 19034

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OCT 27 2003

OFFICE OF PETITIONS

LETTER

In re Application of :
Smith, et al. :
Application No.: 09/902,811 :
Filed: July 10, 2001 :
Attorney Docket No.: MS1-862US :
For: APPLICATION PROGRAM INTERFACE :
FOR NETWORK SOFTWARE PLATFORM :

Dear Mr. Bau:

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
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ADAM M. SALTZMAN
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020

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OCT 26 2006

OFFICE OF PETITIONS

In re Application of
CHU
Application No. 09/902,834
Filed: July 12, 2001
Attorney Docket No. 4123-004

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 14, 2006.

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

A review of the file record indicates that the power of attorney to Adam M. Saltzman has been revoked by the assignee of the patent application on August 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **COATS & BENNETT, PLLC**
P O BOX 5
RALEIGH, NC 27602

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL L. GOLDMAN
NIXON PEABODY LLP
CLINTON SQUARE
P O BOX 31051
ROCHESTER, NY 14603

COPY MAILED

DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of	:
James P. Beck et al	:
Application No. 09/902,845	: DECISION GRANTING PETITION
Filed: July 11, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PH-7222	:

This is a decision on the petition, filed November 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 July 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1625 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 Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 17, 2006

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/902845 Patent No.: 7,084,152 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

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

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

Comments: The Change to title does not introduce new matter ∴ The Fee has been Charged to the deposit account number for making this correction

C. S. Aucath (PRIMARY EXAMINER)

Thomas McKenzie
SPE

1625
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

Patent No.	:	**7,084,152 B2**
Dated	:	**August 1, 2006**
Inventors	:	**Beck et al.**

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

Cover page at (54), delete "4-PHENYL SUBSTITUTED TETRAHYDROISOQUINOLINES THERAPEUTIC USE THEREOF" and insert -- 4-PHENYL SUBSTITUTED TETRAHYDROISOQUINOLINES AND THERAPEUTIC USE THEREOF-- in its place.

MAILING ADDRESS OF SENDER:

Michael L. Goldman
NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester, New York 14603-1051

PATENT No. 7,084,152 B2

No. of add'l copies
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FORM PTO-1050 (REV. 3-75)

10083641.1
2809/1381

OCT 2 6 2006

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 9

LAW OFFICES OF RICHARD E. BACKUS
THE MONADNOCK BUILDING, SUITE 490
685 MARKET STREET
SAN FRANCISCO, CA 94105

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JUL 2 9 2003

OFFICE OF PETITIONS

In re Application of	:	
A. David Johnson et al	:	
Application No. 09/902,856	:	ON PETITION
Filed: July 10, 2001	:	
Attorney Docket No. A-70170	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 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 above-identified application became abandoned on January 4, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $465.00 extension of time submitted on April 28, 2003 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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 1742.

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
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
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Mailed: NOV 5 2004

GAC
Paper No.

In re Application of Amendola et al.
Serial No.: 09/902899
Filed: July 11,2001

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: Differential Pressure- Driven Borohydride Based Generator

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed July 11, 2001 to correct inventorship under 37 CFR 1.48(a) by adding the names of Steven C. Petillo 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.

Glenn A Caldarola
Supervisory Patent Examiner
Art Unit 1764
Technology Center 1700

KILYK & BOWERSON, P.L.L.C.
53 A East Lee Street
Warrenton, VA 20186

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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DEC 17 2008

In re Application of	:	
Guler, et al.	:	
Application No. 09/902,928	:	DECISION ON PETITION
Filed: July 10, 2001	:	
Attorney Docket No. 10014417-1	:	

This is a decision on the petition, filed December 3, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before July 2, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 2, 2008.

Petitioners assert that the Notice dated April 2, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to practitioners at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from the practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the July 30, 2008 Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As petitioners have paid the issue fee and publication fee and submitted a completed Part B – Fee(s) Transmittal, it is unnecessary to re-mail the Notice of Allowability and the Notice of Allowance and Fee(s) Due of April 2, 2008. After the mailing of this decision, the application will be referred to the Office of Data Management for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Wasiq Mahood Bokhari et al	:	
Application No. 09/902,929	:	DECISION ON PETITION
Filed: July 10, 2001	:	TO WITHDRAW
Attorney Docket No. CLICP014	:	FROM RECORD
	:	

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

The petition is **NOT APPROVED**.

A review of the file history reveals that:

- The original papers include an appointment of Dominic M. Kotab and Kevin Zilka as an attorney of record.
- On December 22, 2004, Change of Correspondence Address submitted by Customer No. 28875.
- On May 23, 2005, Dominic M. Kotab submitted a Request for Withdrawal as Attorney.
- On November 1, 2005, Stephen H. Pettigrew, on behalf of NVIDIA International, Inc., an assignee of record, filed a Revocation of Prior Power of Attorney and Grant of New Power of Attorney.

Due to the conflicting papers filed in the above-identified application, the record fails to indicate clearly whether Dominic M. Kotab and those practitioners on the record are requesting to be withdrawn or be appointed as power of attorney at present.

A power of attorney submitted on November 1, 2005 was improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in

order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. 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 a registered practitioner given power of attorney in this application, an assignee, or the applicants. See 37 CFR 1.33(a)(2).

This application is being referred to Technology Center AU 2173 to await a reply to the final Office action mailed January 30, 2006.

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

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

MICHAEL C. BARRETT
FULBRIGHT & JAWORSKI L.L.P
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TX 78701

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of Becker et al. Application No. 09/902,933 Filed: July 10, 2001 Title: METHOD AND APPARATUS FOR PROGRAMMABLE FLUIDIC PROCESSING	: : : : : : : : :	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§1.705(b)" filed March 11, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred forty (140) days to four hundred twenty-one (421) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred twenty-one (421) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 25, 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 140 days. On March 11, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 421 days. Applicants dispute the reduction of

[1] PALM records indicate that the Issue Fee was received on April 25, 2005.

293 days for applicant delay in responding to a non-final Office action. Applicants contend that the Office action originally mailed November 17, 2003 was never received. The Office action was re-mailed on August 24, 2004 and the period for response restarted. Accordingly, applicants contend that any reduction should be measured from the date of re-mailing of the Office. As such, their response received December 6, 2004 would lead to a 12 day, not a 293-day reduction. In support thereof, applicants submit a copy of their return postcard, evidencing receipt of the response on December 6, 2004.

The record reveals that the patent issuing from the application is subject to a terminal disclaimer.

The record has been reviewed and it is concluded that applicants are correct. Their delay in responding to the Office action should have been calculated based on the date of re-mailing of the Office action, August 24, 2004. Pursuant to § 1.704(b), the correct reduction is 12 days, the number of days, beginning on the day after the date that is three months after the date of mailing of the Office action that actually notified applicant of the rejection, November 25, 2004, and ending on the date the reply was filed, December 6, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is FOUR HUNDRED TWENTY-ONE (421) days (433 - 12).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

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

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

Attachment: Copy of Revised PAIR Screen

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ALEXANDRIA, VA 22313-1450
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MAY - 4 2004

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

In re Application of	:
Robert A. Henderson et al	:
Serial No.: 09/902,941	: PETITION DECISION
Filed: July 10, 2001	:
Attorney Docket No.: 210121.478C17	:

This is in response to the petition under 37 CFR 1.181, filed January 9, 2004, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on May 23, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply, a Notice of Abandonment was mailed to applicants on December 3, 2003. Applicants state that they replied on August 21, 2003, and provide a copy of an Office date stamped return postcard dated August 21, 2003, as evidence of receipt by the Office. The reply has not been located and the copy of the reply provided with the petition has been utilized In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

Applicants remain under obligation to respond to the recently mailed Office action within the time period as set therein or as may be extended under 37 CFR 1.136(b).

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Jasemine C. Chambers
Director, Technology Center 1600

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Paper No. 7

Robert W. Stevenson
Cell Pathways, Inc.
702 Electronic Drive
Horsham, PA 19044

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MAY 14 2003

OFFICE OF PETITIONS

In re Application of
Pamukcu et al.
Application No. 09/902,948
Filed: July 11, 2001
Attorney Docket No. P-166-1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 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 Restriction mailed September 5, 2002, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the above-identified application became abandoned on October 6, 2002. A Notice of Abandonment was mailed on April 9, 2003.

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

Petitioner submitted $130.00 towards payment of the petition fee. The fee associated with a petition under 37 C.F.R. § 1.137(b) is $650.00 under small entity status. Therefore, petitioner's deposit account will be charged $650.00 rather than $130.00.

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 $985.00 extension of time fee submitted with the petition on May 8, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will not be charged to petitioner's deposit account.

The file is now being forwarded to Technology Center 1600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OSI PHARMACEUTICALS INC.
58 SOUTH SERVICE ROAD
SUITE 110
MELVILLE NY 11747

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NOV 1 6 2004

OFFICE OF PETITIONS

In re Application of
Rifat Pamukcu et al
Application No. 09/902,948
Filed: July 11, 2001
Attorney Docket No. P-166-1

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed March 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 11, 2004.

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

The application file is being referred to the Office of Patent Publication.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

GIPPLE & HALE
P.O. BOX 40513
WASHINGTON, DC 20016

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of
Waheed N. Khan
Application No. 09/902,966
Filed: July 12, 2001
Attorney Docket No. X-9340

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 25, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 26, 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)). The petitions lacks item (2).

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 only submitted $650. Accordingly, a consideration on the merits of the present petition cannot be made until the $100 fee deficiency is submitted to the Office.

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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 9

GIPPLE & HALE
P.O. BOX 40513
WASHINGTON, DC 20016

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JUN 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Waheed N. Khan	:	
Application No. 09/902,966	:	ON PETITION
Filed: July 12, 2001	:	
Attorney Docket No. X-9340	:	

This is a decision on the paper filed March 28, 2005, which is being treated as a renewed petition under 37 CFR 1.137(b), 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 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 September 25, 2003 is accepted as having been unintentionally delay.

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

This application is being forwarded to Technology Center AU 1641.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVEN P. WIGMORE
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

MAIL

OCT 1 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Nuggehally S. Jayant, et al. :
Application No. 09/902,976 :
Filed: July 11, 2001 :
For: VIDEO COMPRESSION USING ADAPTIVE SELECTION OF GROUPS OF FRAMES, ADAPTIVE BIT ALLOCATION, AND ADAPTIVE REPLENISHMENT :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

ROBERT BUCKLEY
PATENT ATTORNEY
PO BOX 2520
MENLO PARK CA 94026-2520

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APR 17 2002

OFFICE OF PETITIONS

In re Application of Sharif, et al. Application No. 09/902,986 Filed: July 11, 2001 Attorney Docket No. UNIQA-PPA2 Title: WEB BROWSER IMPLEMENTED IN AN INTERNET APPLIANCE	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed January 24, 2002 (Certificate of Mailing dated December 20, 2001).

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

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

The above-identified application was filed on July 11, 2001. On August 24, 2001, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, petitioner filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time. Accompanying the petition was a declaration by April Yin, detailing the facts concerning co-inventors Bremsteller's, Knapp's, and Ivey's refusal to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (1).

As to item (1), the petition and accompanying evidence have been carefully considered. However, while the declaration by Yin states that Ivey made a written refusal to execute the declaration, the petition failed to provide a copy of Ivey's written refusal. Regarding this, the Manual of Patent Examining Procedure states that, "[w]hen there is an express written refusal, a copy of the document evidencing that refusal **must** be made part of the statement of facts."[1]

Moreover, it is noted that while petitioner supplied a copy of signature cards evidencing mailing of the application papers to the nonsigning inventors, no such card has been supplied for Ivey. While cards are present for inventors Knapp and Bremsteller, the third card is addressed to (and presumably signed by)a "Noman Waseq", not Glen Edward Ivey.

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

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

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

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

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

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

[1] MPEP 409.03(d) (emphasis added).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 10

ROBERT BUCKLEY
PATENT ATTORNEY
PO BOX 2520
MENLO PARK CA 94026-2520

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SEP 1 2 2002

OFFICE OF PETITIONS

In Application of Sharif, et al. Application No. 09/902,986 Filed: July 11, 2001 Attorney Docket No. UNIQA-PPA2 Title: WEB BROWSER IMPLEMENTED IN AN INTERNET APPLIANCE	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Response to Decision Refusing Status, and Petition for 3-Month Extension of Time to Respond", filed July 22, 2002, which is being treated as a renewed petition under 37 CFR 1.47(a).

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

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 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 July 11, 2001. On August 24, 2001, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

On January 24, 2002, petitioner filed the a petition under 37 CFR 1.47 and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time. Accompanying the petition was a declaration by April Yin, detailing the facts concerning co-inventors Bremsteller's, Knapp's, and Ivey's refusal to sign the declaration.

However, this petition was dismissed in a decision mailed on April 17, 2002, because with respect to Ivy, no copy of Ivy's written refusal (mentioned in the petition) was supplied as required by MPEP 409.03(d). Petitioner was successful in meeting the requirements of a grantable petition under 37 CFR 1.47(a) with respect to non-signing inventors Bremsteller and Knapp.

Petitioner demonstrated that copies of the application papers were submitted to these two inventors, and that as of the date of the decision, no executed oath or declaration from them had been received.

On renewed petition, petitioner has supplied a declaration executed by inventor Ivey. Therefore, petitioner argues that the issues raised in the April 17, 2002 dismissal are now moot.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (2) above.

As to requirement (2), the declaration submitted with the petition does not comply with 37 CFR 1.63. Inventor Glen Edward Ivey has not signed a declaration that identifies the other joint inventors. Regarding this, the MPEP states:

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).[1]

Here, the page of the declaration with Ivey's signature only identifies Ivey as the inventor. On renewed petition, petitioner must submit an oath or declaration in compliance with 37 CFR 1.63.

Petitioner submitted a fee in the amount of $460 for a three month extension of time to respond to the dismissal dated April 17, 2002. However, as petitioner included a Certificate of Mailing dated July 15, 2002, only a one month extension of time was needed to respond to the April 17, 2002 dismissal.[2]

---

[1] MPEP 201.03(B).

[2] The April 17, 2002 dismissal set a period for response of two months. Therefore, the last day petitioner could have responded without an extension of time would have been June 17, 2002.

Accordingly, the $405 difference between the three month extension of time ($460) obtained and the one month extension of time ($55) that was required will be refunded to petitioner under separate cover.

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 regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

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

UNITED STATES PATENT TRADEMARK OFFICE

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

Paper No. 14

ROBERT BUCKLEY
PATENT ATTORNEY
PO BOX 2520
MENLO PARK CA 94026-2520

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MAR 0 4 2003

OFFICE OF PETITIONS

In Application of Sharif, et al. Application No. 09/902,986 Filed: July 11, 2001 Attorney Docket No. UNIQA-PPA2 Title: WEB BROWSER IMPLEMENTED IN AN INTERNET APPLIANCE	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Renewed Petition Under 37 CFR 1.47(a), and Request for 2-Month Extension of Time to Respond", filed January 14, 2003.

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

The above-identified application was filed on July 11, 2001. On August 24, 2001, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

On January 24, 2002, petitioner filed a petition under 37 CFR 1.47 and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a two month extension of time. Accompanying the petition was a declaration by April Yin, detailing the facts concerning co-inventors Bremsteller's, Knapp's, and Ivey's refusal to sign the declaration.

However, this petition was dismissed in a decision mailed on April 17, 2002, because with respect to Ivy, no copy of Ivy's written refusal (mentioned in the petition) was supplied as required by MPEP 409.03(d). Petitioner was successful in meeting the requirements of a grantable petition under 37 CFR 1.47(a) with respect to non-signing inventors Bremsteller and Knapp.

Petitioner demonstrated that copies of the application papers were submitted to these two inventors, and that as of the date of the decision, no executed oath or declaration from them had been received.

On renewed petition filed July 22, 2002, petitioner supplied a declaration executed by inventor Ivey. Therefore, petitioner argued that the issues raised in the April 17, 2002 dismissal are now moot. However, this petition was dismissed in a decision mailed on September 12, 2002. It was determined that petitioner failed to submit a declaration in compliance with 37 CFR 1.63 with respect to Ivey.

In the instant renewed petition, made timely by including a Certificate of Mailing dated January 9, 2003, petitioner's arguments are considered persuasive. The declarations filed January 24 and July 22, 2002 and the petitions filed January 24 and July 22, 2002 and January 14, 2003 have been reviewed and found to be in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN BREMSTELLER
3020 COUNTRY SQUARE
SUITE 2126
CARROLLTON TX 75006

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MAR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Imran Sharif, John Bremsteller,
Glen Edward Ivey, and William
Knapp
Application No. 09/902,986
Filed: July 11, 2001
Title: WEB BROWSER IMPLEMENTED IN AN
INTERNET APPLIANCE

LETTER

Dear Mr. Bremsteller:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Robert Buckley
462 North M Street
Livermore, California 94551-2828
(925)447-4990

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

STEVEN P. WIGMORE
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

MAIL

OCT 1 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Nuggehally S. Jayant, et al. :
Application No. 09/902,995 :
Filed: July 11, 2001 :
For: SYSTEM AND METHOD FOR CALCULATING AN OPTIMUM DISPLAY SIZE FOR A VISUAL OBJECT :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

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

Kenneth A. Wieder

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAIL Paper No. 3

MAR 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Nuggehally Jayant et al :
Application No. 09/903,028 :
Filed: July 11, 2001 :
For: **ADAPTIVE EDGE DETECTION AND ENHANCEMENT FOR IMAGE PROCESSING** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

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

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

Josephine Young is removed from record.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 15

DAVID G. BECK
BINGHAM McCUTCHEN
3 EMBARCADERO CENTER
SUITE 1800
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Yuri V. Melnik et al	:	
Application No. 09/903,047	:	ON PETITION
Filed: July 11, 2001	:	
Attorney Docket No. 23600-7006	:	

This is a decision on the petition, filed July 23, 2003, under 37 CFR 1.313, which is being treated as a petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

The application will be forwarded to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 20

BINGHAM McCUTCHEN LLP
THREE EMBARCADERO CENTER, SUITE 1800
SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of	:
Yuri V. Melnik et al	:DECISION GRANTING PETITION
Application No. 09/903,047	:UNDER 37 CFR 1.137(b)
Filed: July 11, 2001	:
Atty Dkt No. 2023600-7006242001	:

This is a decision on the petition, filed July 23, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f). This is also a decision on the petition filed July 23, 2003, and supplemented on July 28, 2003, to withdraw the instant application from issue. The decision mailed July 24, 2003 is hereby vacated.

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

The petition under 37 CFR 1.313(b)(1) is **DISMISSED** as moot.

Turning first to the petition to withdraw from issue, petitioner requests that the instant application be withdrawn from issue "for its express abandonment." The petition further states that the petition to withdraw from issue is being filed while pending a decision on a simultaneously filed petition under 37 CFR 1.137(f). In a supplement to the petition received on July 28, 2003, petitioner clarifies the petition to withdraw from issue by indicating that the application is not to be expressly abandoned in that it has been applicants' intent to allow the application to issue and that the petition to withdraw from issue was believed necessary in order to allow consideration of the petition to revive.

It is unnecessary, in this particular instance, to withdraw the application from issue to consider a petition to revive under 37 CFR 1.137(b). Further, a petition to withdraw from issue for the purpose of consideration of a petition to revive does not meet

any of the conditions set forth in 37 CFR 1.313 for withdrawing an application from issue. Therefore, for the reasons indicated above, a petition to withdraw this application from issue is not the appropriate avenue of relief herein and is dismissed as involving a moot issue.

Turning next to the petition under 37 CFR 1.137(b), petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 8, 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 USPTO of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 6, 2003 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on March 24, 2003. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

This application is being forwarded to Publishing Division to await a reply the Notice of Publication Fee Due mailed July 30, 2003.

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

Frances Hicks

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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BINGHAM MCCUTCHEN
3 EMBARCADERO CENTER
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SAN FRANCISCO, CA 94111

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MAR 30 2005

OFFICE OF PETITIONS

In re Application of
Yuri V. Melnik et al
Application No. 09/903,047
Filed: July 11, 2001
Attorney Docket No. 23600-7006

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed March 29, 2005, which is being treated under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

This matter is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SAN FRANCISCO, CA 94111

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MAY 1 8 2005

OFFICE OF PETITIONS

In re Application of	:
Yuri V. Melnik et al	: CORRECTED DECISION
Application No. 09/903,047	: UNDER 37 CFR 1.313(c)(3)
Filed: July 11, 2001	:
Attorney Docket No. 23600-7006	:

This is a corrected decision on the petition under 37 CFR 1.313(c), filed March 29, 2005, which is being treated under 37 CFR 1.313 (c)(3), to withdraw the above-identified application from issue after payment of the issue fee. The decision mailed March 30, 2005 is hereby vacated.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application PracticeInterim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

It appears that petitioner seeks withdrawal of the instant application from issue for the purpose of express abandonment in favor of the filing of a continuing application under 37 CFR 1.53(b). However, 37 CFR 1.6(d) states that "[f]acsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt." Accordingly, before the petition to withdraw from issue can be granted, the continuation application papers must be sent to the U.S. Patent and Trademark Office by mail or deposited in the Office of Initial Patent Examination.

In view of the above, the application file will be retained in the Office of Petitions for one month

in order to allow petitioner sufficient time to file a renewed petition under 37 CFR 1.313(c)(3), along with a copy of the continuation application transmittal under 37 CFR 1.53(b). If no renewed petition under 37 CFR 1.313(c))(3) is submitted, this application will be referred to Publishing Division for issuance into a patent.

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

Wan Laymon

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

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Yuri V. Melnik et al :
Application No. 09/903,047 :
Filed: July 11, 2001 :
Attorney Docket No. 23600-7006 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.313(c), filed May 20, 2005, which is being treated under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application filed via Express Mail on May 20, 2005.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

This matter is being referred to Files Repository.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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JUL 15 2002

Office of the Director
Group 3600

#7

Perkins Coie LLP
Peter J. Dehlinger
PO Box 2168
Palo Alto, CA 94026

In re Application of
C. John Wherry et al.
Serial No. 09/903,051
Filed July 10, 2001
For: METHOD AND SYSTEM FOR INVESTMENT INTEGRATION

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

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

The request is **NOT APPROVED**.

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above. There is no indication that Barbara B. Courtney is signing on behalf of the other attorneys of record.

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

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

SM/dw: 7/9/02

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV - 2 2004

Paper No. 9

In re Application of	:	
Arkady Yampolsky *et al*	:	
Application No. 09/903,052	:	DECISION ON PETITION
Filed: July 10, 2001	:	
Attorney Docket No004738/2/CMP	:	

This is a decision on the petition filed on August 9, 2004, by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely reply to the Office action dated September 26, 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 petitioners did in fact file a timely and proper reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, a copy of a request for a one month extension of time together with the fee therefor, a copy of an amendment with the claim surcharge fee therefor, and a copy of a post card receipt for the filing of these papers, showing that they were in fact received in the Office on November 26, 2003, a date within the period for filing a reply to Office letter in question, as extended. Therefore, it is clear 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 Head Supervisory Applications Examiner for entry of the all of the papers attached to the petition. The date to which the papers are entitled is November 26, 2003. All fees have been paid. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Applied Materials, Inc.
2881 Scott Blvd. M/S 2061
Santa Clara, CA 95050

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI, LLP
666 Fifth Avenue
New York, New York 10103-3198

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of	:
Miyazono et al.	:
Application No. 09/903,068	:DECISION GRANTING PETITION AND
Patent No: 6,982,319	:NOTICE OF INTENT TO ISSUE
Filed: July 11, 2001	:CERTIFICATE OF CORRECTION
Attorney Docket No. LUD5298.4 div	:
	:

This decision is in response to Patentees' "REQUEST FOR PATENT TERM ADJUSTMENT (37 CFR 1.702 ET SEQ. 1.705(D), 35 U.S.C. 154)" filed on January 9, 2006 requesting that the Office adjust the Patent Term Adjustment determined at the time of the issuance of the patent from a determination of zero (0) days to a determination of 753 (days).

Patentees' request is **GRANTED-in-Part.** The correct amount of PTA at the time of the issuance of the patent is 533 days. The Office will also adjust the PTA calculation to reflect this decision.

The Office will *sua sponte* issue a certificate of correction reflecting this decision. Patentee is given **ONE MONTH OR (30) DAYS** WHICHEVER IS LONGER to respond to this decision if patentee believe this decision is in error. No extensions of time under 37 CFR 1.136 will be granted.

Patentees submitted a request asserting that they were entitled to a determination of 753 days of PTA based upon USPTO failing to issue the application within three years of the filing date pursuant to 37 CFR 1.702(b), a 533-day delay and USPTO failing to issue the application within four months of the payment of the issue fee under 37 CFR 1.704(2), a 220 day delay. Patentees assert that the 432-day reduction against PTA is in error. Patentees do not mention the 120-day reduction but believe that applicant is contesting that as well since the applicant did not assert that any patentee delay occurred during the pendency of the application. Nor did applicant mention the additional 8 days under 37 CFR 1.702(a)(1).

Patentees arguments are persuasive to the extent herein indicated. The Office missed the requirements of 37 CFR 1.702(a)(1) by a period of 8- days as determined by the USPTO. The Office missed the requirements of 37 CFR 1.702(b) by a period of 533 days as asserted by applicant and determined by the USPTO. As for the requirement of 37 CFR 1.702(a)(4), the Office asserts that the applicants responded to the April 21, 2004 notice of allowance on April 29, 2004 mailing an PTOL-85(B) equivalent back to the USPTO in which the patentee advised

the Office that the issue fee had been previously paid.[1] Accordingly, the Office's four month requirement under the patent term provisions of 35 U.S.C. § 154(b)(1)(A)(iv) and37 CFR 1.702(a)(4) began on April 29, 2004.[2] The Office needed to issue the patent on/before August 29, 2004 to avoid USPTO delay. Accordingly, the amount of time delay in issuing the patent amount to 472 days.

Patentees are reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions*; *Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). Accordingly, the correct amount of administrative delay is 533 (533) days not 1013 (533 + 8 +472) days.

As for patentees, the patentees did not fail to engage in any reasonable efforts to conclude prosecution of the application. The 432- day reduction is in error because applicant replied to the 4/21/2004 notice of allowance on April 29, 2004. The Office entry of issue fee payment on September 26, 2005 is in error. In addition, the 120-day reduction for the 4/29/2004 miscellaneous incoming letter is also in error. The submission of the PTOL-85B equivalent on April 29, 2004 is not considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). Accordingly, the proper amount of PTA at the time of the issuance of the patent is 553 days.

After the mailing of this decision, the Office will forward this patented file to the certificate of correction branch for an issuance of a certificate of correction. The certificate of correction branch will await the thirty day or one month period and then issue this certification of correction.

The Office has assessed the $200.00 fee to deposit account 50-0624. No additional fees are required in determining this request for reconsideration of PTA.

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

Kery A. Fries

Kery Fries
Senior Legal Advisor

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[1]Although applicant did not expressly state that they wanted the previously paid issue fee to be reapplied, the Office is construing the letter of April 29, 2004 as requesting reapplication of the previously paid issue fee.

[2]It is unclear to the USPTO how patentees determined the issue fee payment date to be February 25, 2004.

Application No. 09/903,068

Office of Deputy Commissioner
for Patent Examination Policy

cc: Draft certificate of correction
Adjusted PAIR calculation

PALM INTRANET

Day : Saturday
Date: 9/2/2006
Time: 11:39:21

PTA Calculations for Application: 09/903068

Application Filing Date:	07/11/2001	PTO Delay (PTO):	541
Issue Date of Patent:	01/03/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	552
Post-Issue Petitions:	0	Total PTA (days):	533
PTO Delay Adjustment:	544		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82	09/02/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		8	
81	09/02/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	552		
75.5	12/14/2005	PTA 36 MONTHS	533		
75	01/03/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
74	11/28/2005	RECEIPT INTO PUBS			
73	11/28/2005	DISPATCH TO FDC			
72	11/28/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
70	11/28/2005	WORKFLOW - SIGNATORY REVIEW - FINISH			
69	09/26/2005	ISSUE FEE PAYMENT VERIFIED			
68	11/21/2005	RECEIPT INTO PUBS			
67	09/26/2005	ISSUE FEE PAYMENT VERIFIED		432	49
66	11/02/2005	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
65	11/02/2005	PETITION TO REVIVE APPLICATION - GRANTED			
64	09/26/2005	PETITION ENTERED			
62	09/19/2005	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
61	09/19/2005	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
60	09/15/2005	RECEIPT INTO PUBS			
59	04/29/2004	MISCELLANEOUS INCOMING LETTER		120	55
58	08/22/2005	RECEIPT INTO PUBS			
57	07/01/2005	WORKFLOW - QUERY REQUEST - FINISH			
56	03/22/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			

55	03/02/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
54	03/02/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
53	10/18/2004	RECEIPT INTO PUBS			
52	06/08/2004	SEQUENCE FORWARDED TO PUBS ON TAPE			
51	06/17/2004	WORKFLOW - QUERY REQUEST - BEGIN			
50	05/11/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
49	04/21/2004	MAIL NOTICE OF ALLOWANCE			
48	04/21/2004	MAIL FORMAL DRAWINGS REQUIRED			
47	04/21/2004	ISSUE REVISION COMPLETED			
46	04/21/2004	FORMAL DRAWINGS REQUIRED			
45	04/21/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	04/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
43	04/21/2004	NOTICE OF ALLOWABILITY			
42	04/20/2004	DATE FORWARDED TO EXAMINER			
41	04/06/2004	SUPPLEMENTAL RESPONSE			
40	04/16/2004	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
39	04/06/2004	WORKFLOW INCOMING AMENDMENT IFW			
38	03/11/2004	IFW AMENDED CASE PROCESSING COMPLETE			
37	02/25/2004	NEW OR ADDITIONAL DRAWING FILED			
36	03/11/2004	DATE FORWARDED TO EXAMINER			
35	02/25/2004	RESPONSE AFTER EX PARTE QUAYLE ACTION			
34	03/05/2004	ERROR(S) IN CRF CORRECTED BY STIC			
33	02/04/2004	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
32	02/03/2004	EX PARTE QUAYLE ACTION			
31	01/30/2004	DATE FORWARDED TO EXAMINER			
30	01/30/2004	WITHDRAWAL OF NOTICE OF ALLOWANCE			
29	07/30/2003	ISSUE FEE PAYMENT RECEIVED			
28	05/20/2003	WORKFLOW - SIGNATORY REVIEW - BEGIN			
27	05/16/2003	MAIL NOTICE OF ALLOWANCE			
26	05/16/2003	MAIL FORMAL DRAWINGS REQUIRED			
25	05/16/2003	MAIL EXAMINER'S AMENDMENT			
24	05/16/2003	FORMAL DRAWINGS REQUIRED			
23	05/16/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	05/16/2003	EXAMINER'S AMENDMENT COMMUNICATION			

21	05/16/2003	NOTICE OF ALLOWABILITY			
20	03/19/2003	DATE FORWARDED TO EXAMINER			
19	02/14/2003	RESPONSE AFTER NON-FINAL ACTION			
18	12/11/2002	MAIL NON-FINAL REJECTION			
17	12/11/2002	NON-FINAL REJECTION			
16	10/15/2002	DATE FORWARDED TO EXAMINER			
15	10/14/2002	RESPONSE TO ELECTION / RESTRICTION FILED			
14	09/19/2002	MAIL RESTRICTION REQUIREMENT	8		-1
13	09/19/2002	REQUIREMENT FOR RESTRICTION / ELECTION			
12	09/09/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	09/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	03/19/2002	PRELIMINARY AMENDMENT			
9	07/11/2001	PRELIMINARY AMENDMENT			
8	01/30/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	01/23/2002	APPLICATION DISPATCHED FROM OIPE			
6	01/22/2002	APPLICATION IS NOW COMPLETE			
4	01/17/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	07/11/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
2	07/25/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/11/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,982,319 B2

DATED : Jan. 3, 2006

INVENTOR(S) : Miyazono 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 (0) days

Delete the phrase "by 0 days" and insert – by 533 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No : _____

DATE 3/5/10

TO SPE OF : ART UNIT 3692 Kramer James (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/903075 Patent No.: 7627574

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

[signature]
Certificates of Correction Branch
703-756-1571

Thank You For Your Assistance

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

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

Comments: Correction to address of the inventor(s) and correction of typing clerical errors in the claims. Does not change the scope of the claimed invention.

SPE _____ Art Unit _____

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

WILLIAM N. HULSEY III
HUGHES & LUCE, L.L.P.
SUITE 2800
1717 MAIN STREET
DALLAS, TX 75201

COPY MAILED
APR 28 2004
OFFICE OF PETITIONS

In re Application of :
Mitchell, Bradley Dale :
Application No. 09/903,119 : ON PETITION
Filed: July 10, 2001 :
Attorney Docket No. 12522:12 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 19, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 27, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 28, 2003. A Notice of Abandonment was mailed on December 17, 2003.

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

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.

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

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

Liana Chase

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

cc: DAVID B. RITCHIE
THELEN REID & PRIEST, LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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COMMISSIONER FOR PATENTS
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Paper No. 6

YOUNG & BASILE, P.C.
Suite 624
3001 West Big Beaver Road
Troy MI 48084-3107

MAIL

JUN 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Niko Drakoulis, et al.	:	
Application No. 09/903,129	:	DECISION ON PETITION
Filed: July 11, 2001	:	TO MAKE SPECIAL
For: WIRELESS AUDIO TRANSMISSION METHOD AND APPARATUS FOR COUPLING AUDIO PLAYERS TO AUDIO RECEIVERS	:	

This is a decision on the petition filed October 30, 2003 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

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

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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James R. Nock
IBM Corporation, Dept. 917
3605 Highway 52 North
Rochester, MN 55901-7829

Mail Date: 04/21/2010

Applicant	: Wright J. Nee	: DECISION ON REQUEST FOR
Patent Number	: 7587185	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/903,131	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/11/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1570** 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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ALEXANDRIA, VA 22313-1450
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MAILED

JUL 21 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Robert R. Williams
IBM Corporation, Dept. 917
3605 Highway 52 North
Rochester, MN 55901-7829

In re application of
Steven Paul Jones
Application No. 09/903,177
Filed: July 11, 2001
For: METHOD AND APPARATUS TO VARY FUEL PRICES FOR VEHICLES BASED ON ENVIRONMENTAL AND CONSERVATION CONSIDERATIONS

DECISION ON PETITION TO MAKE SPECIAL (ENERGY)

This is a decision on the petition filed July 11, 2001 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicants or their attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petitioner states that the invention contributes to the more efficient utilization and conservation of energy by providing a method and apparatus to influence driver vehicle purchases by causing "desirable" vehicles to pay a lower per unit fuel price at the pump. This allows for fuel to be conserved as vehicle buyers will be incited to purchase vehicles that qualify for lower per unit fuel prices.

For the above stated reasons, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

SNM/vdb: 7/19/04

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CHARLES BERMAN
OPPENHEIMER WOLFF & DONNELLY
38TH FLOOR
2029 CENTURY PARK EAST
LOS ANGELES, CA 90067-3024

COPY MAILED
MAY 21 2004
OFFICE OF PETITIONS

In re Application of	:
Edward M. De Robertis et al	: DECISION ON PETITIONS
Application No. 09/903,188	: UNDER 37 CFR 1.78(a)(3) AND
Filed: July 11, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 510015-258	:

This is a decision on the petition filed, November 17, 2003, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed November 17, 2003 does not clearly state the relationship of prior-filed Application No. 08/878,474 and provisional Application No. 60/020,150, to the instant application.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] stating the relationship of the prior-filed applications to the instant is required.

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.

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 FAX: (703) 872-9306
Attn: Office of Petitions

---

[1] *Note* 37 CFR 1.121

By hand: 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

cc:
MCDERMOTT, WILL & EMERY
2049 CENTURY PARK EAST, 34TH FLOOR
LOS ANGELES, CA 90067

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 23, 2006

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction on Patent No.: 6,936,692 / 09/903 190

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. 703-308-9390 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:

Certificate of Correction is correct.

SPE _____ **Art Unit** 1653

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Paper No.

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LIONE/MARVELL
P.O. BOX 10395
CHICAGO IL 60610

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Montierth et al.	:	DECISION ON REQUEST
Application No. 09/903,201	:	FOR RECONSIDERATION OF
Filed: July 10, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
MP1105(13036/105	:	
	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed 8 March, 2007. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests that the Office review the determination of patent term adjustment of 1084 days.

The request for review of the determination of patent term adjustment (PTA) is **granted**.

On 4 December, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one thousand eighty-four (1084) days. Patentees filed the instant letter on 8 March, 2007.

A review of the record reveals that the determination of patent term adjustment was correct. The Office determined a patent term adjustment of one thousand eighty-four (1084) days based on

an adjustment for PTO delay of seven hundred seventy-one (771) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), eleven (11) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), and three hundred two (302) days pursuant to 35 U.S.C. 154(b)(1)(B)(ii) and 37 C.F.R. §1.703(b)(4), reduced by no (0) days of applicant delay.

Further to this point, with regard to the 302 days of delay pursuant to 35 U.S.C. 154(b)(1)(B)(ii) and 37 C.F.R. §1.703(b)(4), applicants are reminded that the period of delay is the number of days, if any, in the period **beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed** under 35 U.S.C. 134 and §1.191 and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences. See 37 C.F.R. §1.703(b)(4) (emphasis added).

As stated in MPEP 2731, when a period is indicated (in 37 CFR 1.703 or 1.704) as "beginning" on a particular day, that day is included in the period, in that such day is "day one" of the period and not "day zero." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length.

As such, the period of delay includes the date that the notice of appeal is filed. Therefore, the delay pursuant to 35 U.S.C. 154(b)(1)(B)(ii) and 37 C.F.R. §1.703(b)(4) was correctly calculated from 31 August, 2005, the date the notice of appeal was filed until 28 June, 2006, the date the Board of Patent Appeals and Interferences decision reversing the examiner was mailed.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **one thousand eighty-four (1084) days** (1084 days of PTO delay (771+11+302), reduced by 0 days of Applicant delay). To the extent that applicants are aware of any specific error in the PTA calculation, applicants should so advise the Office.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Publishing Division for processing into patent.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

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. 5
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JUL 05 2002

OFFICE OF PETITIONS

COHEN, PONTANI, LIEBERMAN & PAVANE
Suite 1210
551 Fifth Avenue
New York, NY 10176

In re Application of
Mariette Lehto
Application No. 09/903,225
Filed: July 11, 2001
Attorney Docket Number: 2132-48PCON

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

This is in response to the petition under 37 C.F.R. §1.47(b), filed March 27, 2002.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(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 C.F.R. §1.136(a).

The above-identified application was filed on July 11, 2001, without an executed oath or declaration, and naming Mariette Lehto as sole inventor. Accordingly, on August 27, 2001, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely , applicant also filed a request for a (5) five-month extension of time (and fee). Accompanying the petition is an extract from the trade register of Sonera Oyi, purported assignee, statement from European patent attorney, Markku Simmelvuo, assignment document, certified letter of employment, affidavit of Anni Vepsalainen employee of purported assignee, correspondence between foreign counsel and U.S. counsel and, an executed Declaration and power of attorney.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), and (2).

Proof of Refusal to Sign the Oath or Declaration

As to item (1), rule 47 applicant has failed to show that non-signing inventor has refused to execute the application papers. Although the petition and the affidavit of Anni Vepsalainen indicate the application papers including the declaration were forwarded to inventor Lehto, there is no specificity as to the manner in which the

application papers were mailed to inventor Lehto. Was the application mailed or delivered? Furthermore, the affidavit merely indicates the application was forwarded "in or about July 2001". Did rule 47 applicant follow-up with a phone call? Upon renewed petition, rule 47 applicant may wish to provide more specific facts as to how and when the application papers were provided to inventor Lehto.

An Acceptable Oath or Declaration

As to item (2), although rule 47 applicant submitted the $130 surcharge fee for the submission of a late oath or declaration, Applicant failed to submit an oath or declaration in compliance with the 37 CFR 1.63 and 1.64. The granting of 47 status requires a rule 47 (b) applicant to make the oath or declaration. An officer of a corporation normally is required to sign the oath or declaration. See MPEP 409.03(b).

The declaration has two signatures one from the general counsel and one from assistant general counsel. However, the names and address on the declaration are barely legible. Furthermore, due to the illegibility of the signatures, the Office is incapable of verifying via the Extract from the Trade Register whether the counselors are authorized to execute a declaration on behalf of Sonera Oyj. If the counselors are not identified on the Extract from the Trade Register as being capable of binding Sonera Oyj, on renewed petition evidence must be supplied of such authority.

Lastly, the declaration needs to include the date it is executed.

Petition Fee

As to item (3), applicant has paid the $130 petition fee pursuant to 37 CFR 1.17(h).

Statement of Last Known Address

As to item (4), applicant has provided the last known address of the non-signing inventor.

Proof of Proprietary Interest

As to item (5), applicant has established proprietary interest via the statement of European patent attorney Markku Simmelvuo, and the certification of employment relationship.

Showing That Such Action Is Necessary to Preserve the Rights of Parties or to Prevent Irreparable Damage.

As to item (6), applicant has provided a statement that the granting of rule 47 status is necessary to preserve the rights of the party or prevent irreparable damage. See MPEP 409.03(h).

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 22202

Telephone inquiries regarding this decision should be directed to Petitions Attorney Charlema R. Grant at (703) 305-0309.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 13 2002

OFFICE OF PETITIONS

COHEN, PONTANI, LIEBERMAN & PAVANE
Suite 1210
551 Fifth Avenue
New York, NY 10176

In re Application of
Mariette Lehto
Application No. 09/903,225
Filed: July 11, 2001
Attorney Docket Number: 2132-48PCON

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

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed October 7, 2002.

The petition is **GRANTED**.

The above-identified application was filed on July 11, 2001, without an executed oath or declaration, and naming Mariette Lehto as sole inventor. Accordingly, on August 27, 2001, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In response, on March 27, 2002, and supplemented on October 7, 2002 applicant filed:

- a statement from European patent attorney Markku Simmelvuo and Certification of Employment Relationship,
- extract from trade roster,
- a statement from Mika Valkeapaa and employee of Sonera Oyj,
- declaration and power of attorney signed by Maire Laitinen, General Counsel and Tiia Tuovinen, Assistant General Counsel of Sonera Oyj,
- translated correspondence to non-signing inventor,
- the surcharge under 1.16(e)for late filing, and
- a petition (and fee) under §1.47(b).

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has been presented with a copy of the application papers for signature and that she has refused by statement and conduct to sign the declaration. Applicant submitted a declaration signed by, Maire Laitinen, General Counsel and Tiia Tuovinen, Assistant General Counsel of Sonera Oyj. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. The statement from Markku Simmelvuo and the Certification of Employment Relationship establish the applicant's proprietary interest in the application.

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

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

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

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

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mariette Lehto
7 Tredegar House
97-99 Bow Road
Bow London E3 2AN
Great Britain

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of
Mariette Lehto
Application No. 09/903,225
Filed: July 11, 2001
Title: METHOD AND SYSTEM FOR THE EFFECTING PAYMENTS BY MEANS OF A MOBILE STATION

LETTER

Dear Ms. Lehto:

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

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

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

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

Lance J. Lieberman
COHEN, PONTANI, LIEBERMAN & PAVANE
Suite 1210
551 Fifth Avenue
New York, NY 10176

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WASHINGTON, D.C. 20231
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Paper No. 5

THE PROCTER & GAMBLE COMPANY
PATENT DIVISION
IVORYDALE TECHNICAL CENTER - BOX 474
5299 SPRING GROVE AVENUE
CINCINNATI, OH 45217

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DEC 26 2001

OFFICE OF PETITIONS

In re Application of Kaiser Application No. 09/903,255 Filed: July 11, 2001 Attorney Docket No. CM2388	DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION IN RESPONSE TO NOTICE TO FILE MISSING PARTS," filed September 21, 2001, requesting, in effect, that a missing page of specification be accorded a July 11, 2001 filing date.

The application was filed on July 11, 2001. However, on August 27, 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 July 11, 2001, but that page 1 appeared to have been omitted. In addition, the Notice required an oath or declaration and surcharge for its late filing.

In response, the present petition was filed wherein petitioner argues that page 1 was filed on July 11, 2001. In support, the petition is accompanied by a copy of applicant's return postcard which lists 13 pages of specification and abstract. The petition is further accompanied by a copy of the initial filing.

The copy of applicant's itemized postcard supplied on September 21, 2001 shows an Office bar code sticker affixed thereto which identifies (1) the application in numerical and in bar code format and most importantly, (2) the date of receipt. That date is July 11, 2001. Therefore, it serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this matter.

While the Notice is withdrawn in part with respect to the missing page of specification, **the Notice remains in effect with respect to the missing oath or declaration and the surcharge for its late filing**. To avoid abandonment, an oath or declaration and the surcharge must be filed no later than March 27, 2002 with appropriate extension fees.

The application will be returned to the Office of Initial Patent Examination to await receipt of the oath/declaration and surcharge and for further processing with a filing date of July 11, 2001, using the copy of page 1 supplied with the present petition.

Thereafter, the application will be forwarded to Examining Group 1700 for examination in due course with the presently accorded filing date of July 11, 2001.

Telephone inquiries specific to this matter should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 13 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Elijah Cocks
Choate, Hall & Stewart
53 State Street, Exchange Place
Boston, MA 02109

In re application of
Steven M. Cohn et al. :
Application No. 09/903,257 :
Filed: July 11, 2001 :
For: SYSTEM AND METHOD FOR ESTABLISHING: BUSINESS TO BUSINESS CONNECTIONS : VIA THE INTERNET :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 24, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to item B), there is no indication in the file record of CNET Networks, Inc. being the assignee ("client"). Absent a statement submitted in accordance with 37 CFR 3.73(b) providing documentary evidence of a chain of title from the original owners to the assignee or a statement specifying where this evidence is recorded in the Office (e.g., reel and frame number), the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case Newmediary, Inc. Therefore, the stated reason for withdrawal that the "client", CNET Networks, Inc., wishes to retain its own representation in prosecuting the application is improper because there is no evidence in the file record establishing CNET Networks, Inc. as the assignee/"client". A proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

RAR/mjz: 2/11/04

COPY OF PAPERS
ORIGINALLY FILED

Sector
Box Seqn.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C., 20231, on:

Date: January 18, 2002 By: Lynnea B. Anderson

Docket No. 50225-8068.US00 (ACBI068.00US) PATENT

OIPE
FEB 12 2002
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Singh *et al.*

SERIAL NO.: 09/903,290

FILED: July 11, 2001

FOR: TAG CLEAVAGE FOR DETECTION OF NUCLEIC ACIDS

EXAMINER: Unknown

ART UNIT: 1743

Response to Notice to File Missing Parts of Application

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

Sir:

1. In response to the Notice to File Missing Parts mailed August 27, 2001 (copy enclosed), applicant submits the following:

- ☒ A Petition for 3-month time extension
- ☒ An Executed Declaration of Inventorship
- ☒ A Power of Attorney by Assignee
- ☒ A Preliminary Amendment
- ☒ A Sequence Listing, matching declaration and diskette
- ☒ a **copy** of an assignment recordation cover sheet **for information purposes only** (Form PTOL-1595) for assignment being filed separately.

2. Conditional Petition for Extension of Time

Applicant petitions for an Extension of Time if necessary for timely filing of this Response.

3. Fee Payment

☒ Applicant claims small entity status. See 37 CFR §1.27.

☒ Please charge the fee of **$65.00** in payment of the surcharge for late filing of declaration or oath to Deposit Account No. **50-0665.**

☒ Please charge any underpayment for timely filing of this Response to Deposit Account No. **50-0665.**

Respectfully submitted,

Jacqueline F. Mahoney

Date: January 18, 2007

Jacqueline F. Mahoney
Registration No. 48,390

Correspondence Address:
Customer No. 22918
Phone: (650) 838-4410

COPY OF PAPERS ORIGINALLY FILED

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 1 2 2002

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/903,290	07/11/2001	Sharat Singh	0225-0068.30

CONFIRMATION NO. 7478

FORMALITIES LETTER

OC000000006475350

22918
IOTA PI LAW GROUP
350 CAMBRIDGE AVENUE SUITE 250
P O BOX 60850
PALO ALTO, CA 94306-0850

Date Mailed: 08/27/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

02/15/2002 SDIRETA1 00000091 500665 09903290
01 FC:205 65.00 CH

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

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

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/903,290	07/11/2001	Sharat Singh	50225-8068.US00 (ACBI068.

OIPE JC10
APR 15 2002
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 7478

FORMALITIES LETTER

OC000000007683862

22918
PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

Date Mailed: 03/22/2002

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

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

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

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

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

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

OIPE JC10 APR 1 5 2002 PATENT & TRADEMARK OFFICE

03CO Box Sequence #7

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Box Sequence, P. O. Box 2327, Arlington, VA 22202, on:

Date: April 8, 2002 By: L Anderson

Docket No. 50225-8068.US00 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	Sharat Singh *et al.*	EXAMINER:	Unknown
SERIAL NO.: 09/903,290		ART UNIT:	1743
FILED: July 11, 2001		Confirmation No. 7478	
FOR:	**TAG CLEAVAGE FOR DETECTION OF NUCLEIC ACIDS**		

Response to Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures

Box Sequence
Assistant Commissioner for Patents
P. O. Box 2327
Arlington, VA 22202

Sir:

1. In response to the Notice to Comply mailed March 22, 2002 (copy enclosed), applicant submits the following:
   ☒ A Sequence Listing on floppy diskette and Matching Declaration under 37 CFR §1.821.

2. Conditional Petition for Extension of Time
   Applicant petitions for an Extension of Time if necessary for timely filing of this Response.

3. Fee Payment
   ☒ No Fees are believed to be due, however, if necessary, please charge any underpayment for timely filing of this Response to Deposit Account No. 50-0665.

Respectfully submitted,

Jacqueline F. Mahoney

Date: April 8, 2002

Jacqueline F. Mahoney
Registration No. 48,390

Correspondence Address:
Customer No. 22918
Phone: (650) 838-4410

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. 14

DAVID E. BRUNH
DORSEY & WHITNEY LLP
220 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Fritz Kirchhofer et al	:	
Application No. 09/903,297	:	DECISION ON PETITION
Filed: July 11, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14080	:	AND 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.313(b)(5), filed August 20, 2003, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3), filed August 20, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to International Patent Application PCT/CHOO/00017, filed January 11, 2000, which claims priority to German Application 199 00 827.2.

The petitions are **DISMISSED**.

PETITION UNDER 37 CFR 1.313(c)(2)

Turning first to the petition under 37 CFR 1.313(c)(2), unfortunately, the instant petition to withdraw from issue was not received within sufficient time to avert the issuance of the above-identified application into a patent. In this regard, the petition did not reach the deciding official's office until December 23, 2003, which is after the date of issuance of the instant application into Patent No. 6,613,023 on September 2, 2003.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since a petition to withdraw the instant application from issue was not granted prior to issuance of the instant application into a patent, the request for continued examination (RCE) filed concurrently with the instant petition is improper. Accordingly, the $770 fee submitted for the RCE will be refunded to petitioner's deposit account in due course.

PETITION UNDER 37 CFR 1.78(a)(3)

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition was accompanied by items (1) through (3) above. However, because the instant application has now issued into a patent, a Certificate of Correction and documentation showing designation of states and any other information needed to make it clear from the record that the 35 U.S.C. § 120 priority is appropriate[1] must now be submitted before the petition under 37 CFR 1.78(a)(3) can be granted. *Note* MPEP 1481, page 1400-71 (Aug. 2001).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must comply with the above-noted requirements. Any request for reconsideration of this decision must be included in a Renewed Petition under 37 CFR 1.78(a)(3).

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[1] *See* MPEP 201.13(b) as to the requirements for 35 U.S.C. § 120 priority based on an international application.

A further inspection of the instant record reveals that, although a claim for foreign priority under 35 U.S.C. § 119 to German Application No. 199 00 827.2 was lodged in a declaration under 37 CFR 1.63 filed with the application on July 11, 2001, there is no indication throughout the history of this file that a certified copy of the priority document was ever submitted prior to issuance. A certified copy of the priority document was received on February 28, 2004.

Under the rule (37 CFR 1.55), an applicant who wishes to secure the right of priority must comply with certain formal requirements within a time specific. If these requirements are not complied with, the right of priority is lost and cannot thereafter be asserted.

Specifically, the requirements of the rule are (a) that the applicant must file a claim for the right and (b) he or she must also file a certified copy of the original foreign application, and (c) these papers must be filed within a certain time limit. The maximum time limit specified in the rule is that the claim for priority and the priority papers must both be filed before the patent is granted. *See* 37 CFR 1.55. If the required papers are not filed within the time limit set, the right of priority is lost. As the record presently discloses that the certified copy of the priority document was not, as required by rule, filed in the above-identified application either during prosecution or prior to issuance of the application into a patent, the right of priority to the German patent application is lost.

However, a reissue was granted in Brenner v. State of Israel , 862 O.G. 661; 158 USPQ 584 (D.C. Cir. 1968), where the only ground urged was applicant's failure to file the certified copy of the original foreign application under 35 U.S.C. § 119 before the patent was granted. Under the circumstances of this case, petitioner may wish to seek relief from his predicament by way of reissue under 35 U.S.C. § 251. *See* MPEP 1417 and 201.14(a).

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

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

The patented file is being forwarded to Files Repository.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO, CA 92122

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Masayuki Chatani, et al.	:	
Application No. 09/903,308	:	DECISION ON PETITION
Filed: July 11, 2001	:	TO WITHDRAW
Attorney Docket No. 37090-2006	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 9, 2006.

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

A review of the file record indicates that a revocation of power of attorney to the attorneys/agents associated with Customer Number 33123 have been revoked by the assignee of the patent application on March 17, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Cheryl Gibson-Baylor at 571-272-3213.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: Richard E. Wawrzyniak, Esq.
Fitch Even Tabin and Flannery
120 South La Salle Street
Suite 1600
Chicago, IL 60603-3406

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 6

ROBERT BUCKLEY
PATENT ATTORNEY
P.O. BOX 2520
MENLO PARK CA 94026-2520

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APR 0 3 2002

OFFICE OF PETITIONS

In re Application of	:
Imran, Bremsteller, Husain, and	:
Ivey	: DECISION REFUSING STATUS
Application No. 09/903,326	: UNDER 37 CFR 1.47(a)
Filed: 11 July, 2001	:
Attorney Docket No. UNIQA-PPA3	:

This is in response to the petition filed under 37 CFR 1.47(a) on 24 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 issue application was filed on 11 July, 2001, without an executed oath or declaration. Accordingly, on 27 August, 2001, a Notice to File Missing Parts was mailed, requiring additional claim fee(s), an executed oath or declaration, and a surcharge for their late filing. In response, on 24 January, 2002, petitioners filed the present petition, accompanied by a declaration naming Imran Sharif, John Bremsteller, Shabbir Syed Husain, and Glen Edward Ivey as joint inventors and signed by joint inventors Sharif and Husain on behalf of themselves and joint inventors Bremsteller and Ivey, the additional claim fee(s), surcharge, and petition fee. A

request and payment of the fee for a two (2)-month extension of time were also submitted.

Petitioners assert that a copy of the application papers were sent to the non-signing joint inventors. Petitioners further state that joint inventor Bremsteller did not respond, while joint inventor Ivey sent back a written refusal to sign the declaration.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In that petitioners state that joint inventor Ivey returned a letter indicating his express refusal to sign, petitioners must provide a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 08-02

Paper No. 6

ROBERT BUCKLEY
PATENT ATTORNEY
P.O. BOX 2520
MENLO PARK CA 94026-2520

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AUG 0 7 2002

OFFICE OF PETITIONS

In re Application of	:
Imran, Bremsteller, Husain, and	:
Ivey	: DECISION ACCORDING STATUS
Application No. 09/903,326	: UNDER 37 CFR 1.47(a)
Filed: 11 July, 2001	:
Attorney Docket No. UNIQA-PPA3	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 22 July, 2002.

The petition is **GRANTED**.

Petitioners have provided a declaration signed by previously non-signing inventor Glen Edward Ivey. Additionally, petitioners have shown that non-signing inventor John Bremsteller has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the declaration of April Yin that a copy of the above-identified application was sent to Bremsteller's address. Bremsteller, however, has failed to return an executed declaration naming him as a joint inventor along with Imran Sharif, Shabbir Syed Husain and Glen Edward Ivey.

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.

It is noted that petitioners submitted a (4) month extension of time with the present renewed petition. As the previous petition was dismissed on 3 April, 2002, only a two (2) month extension of time is required for a timely reply. Petitioners may request a

refund of the difference by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioners' request.

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

The application is being forwarded to Technology Center 2100 for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 08-02

John Bremsteller
3020 Country Square, Suite 2126
Carrollton, TX 75006

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AUG 0 7 2002

OFFICE OF PETITIONS

In re Application of
Sharif et al.
Application No. 09/903,326
Filed: 11 July, 2001
For: INTERNET APPLIANCE FOR INTERACTIVE AUDIO/VIDEO DISPLAY USING A REMOTE CONTROL UNIT FOR USER INPUT

Dear Mr. Bremsteller:

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 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).

DWood

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

ROBERT BUCKLEY
PATENT ATTORNEY
P.O. BOX 2520
MENLO PARK CA 94026-2520

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GARY CARY WARE & FRIENDENRICH, LLP
4365 EXECUTIVE DRIVE
SUITE 1600
SAN DIEGO, CA 92121-2189

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MAY 09 2002

OFFICE OF PETITIONS

In re Application of
Dan E. Robertson; Dennis Murphy;
John Reid; Anthony M. Maffia; Steven
Link; Ronald Swanson; Patrick V.
Warren and Anna Kosmatka
Application No. 09/903,410
Filed: July 10, 2001
Title: ENZYMES HAVING ESTERASE
ACTIVITY AND METHODS OF USE
THEREOF

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 26, 2001.

The petition is **granted**.

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

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

The file is being forwarded to Technology Center 1600.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MORRISON & FOERSTER LLP
3811 VALLEY CENTER DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

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MAY 28 2004

OFFICE OF PETITIONS

In re Application of
Dan E. Robertson et al
Application No. 09/903,410
Filed: July 10, 2001
Attorney Docket No. 564462000820

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 17, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35

U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Additionally, the amendment filed with the instant petition do not compare with the application data sheet. It is not clear in the amendment what application is the PCT a continuation of, and the relationship of Application No. 09/382,242, to the instant application is not stated.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement to the prior-filed PCT application and correcting the above matter along with a renewed petition under 37 CFR 1.78(a)(3), is required.

As authorized, the $1330 fee required by 37 CFR 1.78(a)(3)(ii) will be charged to petitioner's Deposit Account No. 03-1952.

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

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[1] *Note* 37 CFR 1.121

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 500
SAN DIEGO CA 92130-2332

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OFFICE OF PETITIONS

In re Application of	:
Dan E. Robertson et al	:
Application No. 09/903,410	: DECISION ON PETITION
Filed: July 10, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 564462000820	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 24, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The benefit claim for priority to International Application No. PCT/US97/02039, filed February 11, 1997, is improper since the PCT application do not have continuity with the above application.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 3000
MSC 26-22
SHELTON CT 06484-8000

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OFFICE OF PETITIONS

In re Application of
John Eckl
Application No.09/903,500
Filed: July 12, 2001
Attorney Docket No.: F-278

ON PETITION

This is a decision on the petition filed July 20, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

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

This application was held abandoned on May 30, 2007 and a Notice of Abandonment was mailed July 12, 2007, for the appellant's failure to timely take action after the Board of Patent Appeals and Interferences decision rendered March 29, 2007.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of a "Request For Reconsideration....." pursuant to 37 CFR § 41.52(a)(1)" filed May 29, 2007.

A search of the application file and the USPTO records reveals that in fact the "Request For Reconsideration....." pursuant to 37 CFR § 41.52(a)(1)" was filed May 29, 2007 and is of record. Accordingly, the Notice of Abandonment mailed July 12, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 3622 for appropriate action on the "Request For Reconsideration....." pursuant to 37 CFR § 41.52(a)(1)" filed May 29, 2007.

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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GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Ken Kishida et al :
Application No. 09/903,591 : ON PETITION
Filed: July 13, 2001 :
Attorney Docket No. 04329.2607 :

This is a decision on the petition filed September 14, 2005, which is being treated 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 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

www.uspto.gov

Date : September 19, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Ken Kishida et al
Application No. : 09/903,591
Filed : July 13, 2001

The above-identified application has been assigned Patent No. 6,952,191 and an issue date of October 4, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 4, 2005:

"All reference to Patent No. 6,952,191 to Ken Kishida et al of Ome-shi, JAPAN for COMPUTER SYSTEM AND HEADSET-MOUNTED DISPLAY DEVICE appearing in the Official Gazette of October 4, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 7

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PATENT ADMINSTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
SUITE 1600
CHICAGO IL 60661-3693

In re application of: Kenyon et al. Serial Number: 09/903,627 Filed: July 13, 2001 For: AUDIO IDENTIFICATION SYSTEM AND METHOD	DECISION ON PETITION TO MAKE SPECIAL BECAUSE OF INFRINGEMENT

This is a decision on the petition filed January 2, 2003 under 37 C.F.R. § 1.102(d), to make the above-identified application special.

A grantable petition under 37 CFR 1.102(d) and MPEP 708.02, section II: Infringement, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;

(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petitioner meets all of the above requirements. Accordingly, the petition is **GRANTED**.

The application will maintain its special status throughout its entire course of prosecution at the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the Technology Center 2600 technical staff for charging the required fee. From there, the application file will be forwarded to the examiner for expedited prosecution.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Masamichi Ito et al.	:	
Application No. 09/903,706	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. 35.C12551 DI	:	

This is a decision on the PETITION UNDER 37 C.F.R. § 1.182 TO CORRECT APPLICATION PAPERS IN USPTO FILE, filed July 16, 2003. Applicants petition to replace the application papers in the file of the U.S. Patent and Trademark Office for the above-identified application with the correct application papers.

The petition is DISMISSED.

Any petition not filed within TWO (2) MONTHS of the date of this decision may be dismissed as untimely. See § 1.181(f). This time limit may not be extended pursuant to 37 C.F.R. § 1.136(a).

On July 13, 2001, application papers were deposited in the above-identified application. Among the application papers was a copy of a co-pending application (specification, claims and drawings), which was not marked as a copy.

By Office action mailed June 16, 2003, applicant was advised that "the specification is incorrect." In response, the instant petition was filed, asserting that the Office erroneously switched the copy of the co-pending application with the application papers for the instant application.

A continuation or divisional application may be filed under 35 U.S.C. 111(a) using the procedures set forth in 37 CFR 1.53(b), by providing: (A) a copy of the prior application, including a copy of the signed oath or declaration in such prior application, as filed; (B) a new specification and drawings and a copy of the signed oath or declaration as filed in the prior application provided the new specification and drawings do not contain

any subject matter that would have been new matter in the prior application; or (C) a new specification and drawings and a newly executed oath or declaration provided the new specification and drawings do not contain any subject matter that would have been new matter in the prior application. A review of the application file reveals that it was unclear upon processing of the application papers deposited on July 13, 2001, which option applicants had selected to file the instant divisional application. The copy of the prior application was not labeled as a copy. Consequently, the copy of the prior application was used as the application papers for this application, rather than the accompanying new specification and drawings as intended by applicants.

It is undisputed that a new specification and drawings were among the papers filed on July 13, 2001. To provide applicants' relief, it is requested that applicants submit a true copy of the specification, claims and drawings as applicants intended them to be filed on July 13, 2001, and any Information Disclosure Statement or any other application papers filed on that date. All papers should be properly designated.

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

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

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Effective June 5, 2004, patent correspondence delivered by hand or delivery services, **other than the USPS**, to the Customer Window must be addressed as follows:

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of :
Masamichi Ito et al. : DECISION ON PETITION
Application No. 09/903,706 :
Filed: July 13, 2001 :
Atty Docket No. 35.C12551 DI :

This is a decision on the SECOND PETITION UNDER 37 C.F.R. § 1.182 TO CORRECT APPLICATION PAPERS IN USPTO FILE, filed February 8, 2005. Applicants petition to replace the application papers in the file of the U.S. Patent and Trademark Office for the above-identified application with the correct application papers.

The petition is GRANTED to the extent indicated herein.

On July 13, 2001, application papers were deposited in the above-identified application. Among the application papers was a copy of a co-pending application (specification, claims and drawings), which was not marked as a copy.

By Office action mailed June 16, 2003, applicants were advised that "the specification is incorrect." This Office action set a one-month period for reply. Applicants timely filed the first petition on July 16, 2003, asserting that the Office erroneously switched the copy of the co-pending application with the application papers for the instant application.

By decision mailed December 10, 2004, the initial petition was dismissed, although it was determined that a new specification

and drawings were among the papers filed on July 13, 2001. It was requested that applicants submit a true copy of the specification, claims and drawings as applicants intended them to be filed on July 13, 2001, and any Information Disclosure Statement or any other application papers filed on that date.

With this second petition, applicants have submitted the original application papers as they intended them to be filed on July 13, 2001. More specifically, applicants have distinguished the specification, claims and drawings in this application as filed on July 13, 2001 from the copies of the co-pending application submitted on July 13, 2001.

The application is being returned to Technology Center AU 2143 for further action in light of this decision, for consideration of the response to Office action in the form of the specification supplied on February 8, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 31 2001

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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~~JUL 30 2002~~

RECEIVED: 8-5-02
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 11-8-02
Type of Resp(s):
Due Date(s):

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

OIPE JC98
NOV 07 2003
PATENT & TRADEMARK OFFICE

In re Application of
Vieira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

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The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is <u>GRANTED IN PART</u> to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

TC Assignment Appendix
Bulk Filing List With TC Assignment

OIPE JC98
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& TRADEMARK OFFICE

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
	9911493	1743
	9832354	1753
	9842735	1765
	9884981	1765
	9911702	1765
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Docket Number	Application #	Art Unit
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By FAX: (703) 872-9005

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Arlington, VA 22202

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 31 2002

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

~~JUL 30 2002~~

RECEIVED: 8-5-02
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

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different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

Docket Number	Application #	Art Unit
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Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

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#3

COLLEN LAW ASSOCIATES, P.C.
THE HOLYOKE – MANHATTAN BUILDING
80 SOUTH HIGHLAND AVENUE
OSSINING, NY 10562

In re Application of	:	
Edward Jackowski	:	DECISION ON
Serial No.: 09/903,791	:	PETITION TO MAKE SPECIAL
Filed: July 12, 2001	:	
For: System and Method for	:	
Prescribing a Fitness Program	:	

This is in response to applicants' petition filed February 4, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102.

Applicant has not presented petition with a sufficient reason under 37CFR 1.102. Therefore petition is Dismissed .

Petition fee of $130.00 will be refunded to Applicant.

The application is due for action now and will be forwarded to the examiner for action in the few weeks.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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COLLEN LAW ASSOCIATES, P.C.
THE HOLYOKE - MANHATTAN BUILDING
80 SOUTH HIGHLAND AVENUE
OSSINING NY 10562

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JAN 06 2010

In re Patent No. 6,945,911	:	
Issue Date: September 20, 2005	:	
Application No. 09/903,791	:	DECISION ON PETITION
Filed: July 12, 2001	:	UNDER 37 CFR 1.378(b)
Patentee(s): Edward Jackowski	:	

This is a decision on the petition under 37 CFR 1.378(b), filed October 29, 2009, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued September 20, 2005. The first maintenance fee could have been paid from September 22, 2009, through March 22, 2009, or with a surcharge during the period from March 23, 2009 through September 20, 2009. Accordingly, the patent expired after midnight September 20, 2009, for failure to timely submit the first maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks item (1) above.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 41(c)(1).

Petitioner states that the delay in payment of the maintenance fees was unavoidable because of the physical infirmities of his bookkeeper at the time.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In essence, petitioner must show that patentee was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment until the petition was filed.

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee.

Petitioner indicates that his bookkeeper paid all of his corporate and personal bills; however, due to bookkeeper's untimely illness, petitioner was unable to timely pay his maintenance fee.

As the patentee at the time of expiration, it was incumbent on petitioner to have this patent docketed for payment of the maintenance fee in a reliable system as would be employed by a prudent and careful person with respect to his most important business, or to have engaged another for that purpose. See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995). Even where, as here, another has been relied upon to pay the maintenance fees, such asserted reliance *per se* does not provide a petitioner with a showing of unavoidable delay within the meaning of 37 CFR § 1.378(b) and 35 USC § 41(c). Rather, such reliance merely shifts the focus of the inquiry from the petitioner to whether the obligated party acted reasonably and prudently. Nevertheless, a petitioner is bound by any errors that may have been committed by the obligated party.

As 35 USC § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. Since petitioner does not provide a showing that he or his bookkeeper had in fact been tracking the maintenance fee due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra. Put otherwise, the issues of health problems are immaterial in the absence of a showing that this, and not the lack of any steps in place to pay the fee, caused or contributed to the delay.

Since petitioner has not shown to the satisfaction of the Director that the delay in paying the maintenance fee was unavoidable, the petition cannot be granted at this time.

Petitioner should note that if this petition is not renewed or if renewed and not granted, then the maintenance fee and post expiration surcharge are refundable. See 37 CFR 1.378(e) and such may be obtained by written request from the Office of Finance, Refund Section, at the USPTO address above.

Petitioner should also note that since the maintenance fee was proffered within 24 months of the date of expiration date of the patent, he has an alternate remedy under the unintentional provisions of 37 CFR 1.378(c) which does not require a showing of the delay in timely paying the maintenance fee in order to reinstate the patent. The $700 already submitted would be applied to the $1,640 fee owed under 37 CFR 1.378(c), leaving a balance due of $940.

Lastly, it is noted that the petition is signed by the inventor, Edward Jackowski; however, petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office does not engage in dual correspondence with petitioner and petitioner's representative. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. Petitioner is advised that the mere filing of a power of attorney

and/or a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) must also be submitted. A courtesy copy of this decision is being mailed to the petitioner herein; however, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

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[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: EDWARD JACKOWSKI, Ph.D.
28 CENTER AVENUE, UNIT 2
NORWALK, CT 06851

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COLLEN LAW ASSOCIATES, P.C.
THE HOLYOKE - MANHATTAN BUILDING
80 SOUTH HIGHLAND AVENUE
OSSINING, NY 10562

MAILED

JUL 01 2010

OFFICE OF PETITIONS

In re Patent No. 6,945,911	:	
Issue Date: September 20, 2005	:	
Application No. 09/903,791	:	ON PETITION
Filed: July 12, 2001	:	
Patentee(s): Edward Jackowski	:	

This is a decision in response to the petition, filed May 6, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent under the provisions of 37 CFR 1.378(c).

The petition is not signed by a registered patent attorney or agent of record. However, in accordance with 37 CFR 1.34, the signature of Donald J. Ranft appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

This patent expired on September 20, 2009 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition is timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

The petition is found to comply with the requirements of 37 CFR 1.378(c). Accordingly, the petition is **GRANTED**.

In view of the above, the 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries 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

DATE: December 2, 2009
TO: Certificates of Correction Branch
FROM: Chi H. Pham
SPE, Art Unit 2471
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,068,646 as specified on the attached Certificate.

/Chi H. Pham/

Chi H. Pham, SPE
Art Unit 2471

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,068,646
Patented: June 27, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Richard E. Fangman, Round Rock, TX (US); Jason D. Preston, Austin, TX (US); Kenneth Ryon, Leander, TX (US)

/Chi H. Pham/

Chi H. Pham
Supervisory Patent Examiner
Art Unit 2471

1.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria VA 22314

MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Application of
Fangman, et al.
Application No. 09/903,838
Filed: July 11, 2001
Attorney Docket No. P116468

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed July 9, 2009.

The Office no longer investigates or rejects original or reissue patent 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 application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis 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. 5

EUGNE R. QUINN, JR.
4030 COOL WATER COURT
WINTER PARK, FL 32792

COPY MAILED

MAY 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Terry Covert	:	
Application No. 09/903,918	:	DECISION DISMISSING
Filed: July 12, 2001	:	PETITION
Attorney Docket NO. COVERT001	:	
Title: METHOD, APPARATUS AND SYSTEM	:	
FOR PRICING AND SELLING FAMILY	:	
PROTECTOR INSURANCE	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a), filed April 30, 2004.

The above-identified application became abandoned on October 30, 2001 for failure to file a timely reply to the NOTICE TO FILE CORRECTED APPLICATIONS PAPERS mailed August 30, 2001. The Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a). A courtesy Notice of Abandonment was mailed on January 30, 2004.

Petitioner submits that the delay was unavoidable as the Reply was in fact timely filed and the application should not have been abandoned. Petitioner conjectures that, as a result of the anthrax mail scares of the time, the Office did not receive the responsive preliminary amendment. In support thereof, petitioner submits a copy of a Transmittal Form with a certificate of mailing signed October 18, 2001 by patent attorney Eugene Quinn. However, the petition included no statement of attorney Quinn.

On petition, applicant submitted payment of the petition fee under § 1.17(l) and a reply to the Office action in the form of a preliminary amendment, including replacement drawings.

DISCUSSION

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

filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3). The showing of record before the Office is inadequate to establish unavoidable delay within the meaning of 37 CFR § 1.137(a)(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.) In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). Decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

37 CFR § 1.8, provides, in pertinent parts that:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. ...
>
> (c) The Office may require additional evidence to determine if the correspondence was timely filed.

The instant petition was filed within a few months of the mailing of the Notice of Abandonment. However, the petition was filed several years after the abandonment of the application.

Moreover, the petition does not include a statement from attorney Quinn or other proper party attesting to having placed the correspondence in first class mail on October 18, 2001.

In view thereof, it cannot be concluded that petitioner has met his burden of showing unavoidable delay.

CONCLUSION

Petitioner has not met the showing required under § 1.137(a).

Accordingly, the petition is **DISMISSED** without prejudice to reconsideration upon the submission of a statement pursuant to 37 CFR § 1.8(b) by attorney Quinn.

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

Alternative *Venue*

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

By hand: CUSTOMER SERVICE WINDOW
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202
ATTN: NANCY JOHNSON, OFFICE OF PETITIONS

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

EUGNE R. QUINN, JR.
4030 COOL WATER COURT
WINTER PARK, FL 32792

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OCT 20 2004

OFFICE OF PETITIONS

In re Application of	:	
Terry Covert	:	
Application No. 09/903,918	:	DECISION ON
Filed: July 12, 2001	:	PETITION
Attorney Docket NO. COVERT001	:	
Title: METHOD, APPARATUS AND SYSTEM	:	
FOR PRICING AND SELLING FAMILY	:	
PROTECTOR INSURANCE	:	

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(a), filed July 8, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned on October 30, 2001 for failure to file a timely reply to the NOTICE TO FILE CORRECTED APPLICATIONS PAPERS mailed August 30, 2001. A courtesy Notice of Abandonment was mailed on January 30, 2004.

On initial petition filed April 30, 2004, petitioner submitted that the delay was unavoidable as the Reply was in fact timely filed and the application should not have been abandoned. In support thereof, petitioner submitted a copy of a Transmittal Form with a certificate of mailing signed October 18, 2001 by patent attorney Eugene Quinn. Applicant also submitted payment of the petition fee under § 1.17(l) and a reply to the Office action in the form of a preliminary amendment, including replacement drawings.

However, the petition was dismissed on the basis that applicant had not submitted a statement attesting on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission of the response. In addition, it was requested that applicant further explain the delay in filing the petition.

Having considered the additional showing on renewed petition, it is concluded that the showing of record is now sufficient to establish unavoidable delay within the meaning of 37 CFR § 1.137(a)(3).

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing, including processing the response received on petition filed April 30, 2004.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLERGAN, INC.
Carlos A. Fisher-T2-7H
2525 Dupont Drive
Irvine CA 92612

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MAY 13 2008

OFFICE OF PETITIONS

In re Application of :
Michael Garst :
Application No. 09/903,954 : DECISION ON PETITION
Filed: July 12, 2001 :
Attorney Docket No. 17095CIPCON :

This is a decision on the "Petition under 37 CFR 1.182 to Refund Extension Fees and Petition Fees", filed January 25, 2007. This petition is properly treated as a petition under 37 CFR 1.181.[1]

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181.

This application would have been held abandoned for failure to reply to the Notification of Non-Compliant Appeal Brief mailed August 8, 2006, which set an extendable one (1) month shortened statutory period for reply. To make the reply timely a five month extension of time fee was submitted on February 8, 2007.

Petitioner asserts that the Notification of Non-Compliant Appeal Brief dated August 8, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Non-Compliant Appeal Brief, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Non-Compliant Appeal Brief was not in fact received. In this regard, the showing required to establish the failure to receive the Non-Compliant Appeal Brief must consist of the following:

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a

[1] This petition will not address petitioner's claims that question the appropriateness of the Notice to of Non-Compliant Appeal Brief. Such arguments should be directed to art unit 1612 pursuant to 37 CFR 1.4(c).

showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Non-Compliant Appeal Brief of August 8, 2006, the petition requesting refund of the extension of time fees cannot be granted.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

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

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JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Joseph Bernard Weinman, Jr. :
Application No. 09/903,979 : DECISION ON PETITION
Filed: July 12, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 113490 :

This is a decision on the petition, filed May 15, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is dismissed as MOOT.

An applicant who makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing,** the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. *See* Notice published on www.USPTO.gov on June 6, 2003, which clarifies the USPTO's interpretation of the provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv).

In the instant application, a notice to rescind was filed prior to the filing date of a corresponding application in a foreign country. Therefore, since the request to rescind received prior to the filing date of a corresponding application in a foreign application resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned for the reason stated above, the petition fee of $1300 is being credited to Deposit Account No. 01-2745 as authorized.

This application is being forwarded to Technology Center 2600, Art Unit 2664 for examination in due course.

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

Retta Williams

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

Frances Hicks

Frances Hicks
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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JAN 13 2009

In re Patent No. 6,781,029	:	
Issue Date: August 24, 2004	:	
Application No. 09/903,993	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. USF-T147X	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 18, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired on August 24, 2008 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition is **GRANTED**.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 16

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

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AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Bruce K. Martin, Jr. et al	:	
Application No. 09/904,010	:	DECISION ON PETITION
Filed: July 11, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3399P042	:	

This is a decision on the petition, filed May 14, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on July 10, 2002. A review of the file record discloses that a Notice to Rescind was received in the USPTO on June 12, 2002.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/patog/week26/.

In the instant application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen

month publication country. Therefore, since receipt in the USPTO of the request to rescind prior to the filing date of a counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned, for the reason stated above, the petition fee of $1,300 is being credited to Deposit Account No. 02-2666 as authorized.

This application is being forwarded to Technology Center 2131 for examination in due course.

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

Frances Hicks

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

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 8-22-03

2 Serial/Patent # 09/904010

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	14	3/14/03	$ 1300
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1300

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 02--2666

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

Pet unnecessary since case is not regarded as abandoned.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: F Wicks TITLE: Pets Exa'r

SIGNATURE: F Wicks PHONE: 305-8680

OFFICE: 4900

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 8/25/03

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

AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3420 CENTRAL EXPRESSWAY
SANTA CLARA CA 95051

COPY MAILED

JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Dong et al.	:	
Application No. 09/904,039	:	ON PETITION
Filed: July 12, 2001	:	
Attorney Docket No. 3218.2A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 4, 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.

attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: JOE LIEBESCHUETZ
TOWNSEND AND TOWNSEND AND CREW LLP
379 LYTTON AVENUE
PALO ALTO, CA 94301

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. 12

FISH & RICHARDSON P.C.
45 ROCKEFELLER PLAZA
SUITE 2800
NEW YORK, NY 10111

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JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Richard Bourdages :
Application No. 09/904,044 :
Filed: July 12, 2001 :
Attorney Docket No. 11002-0020 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 8, 2002. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a)[1]. No reply having been received, the application became abandoned on October 9, 2002. A Notice of Abandonment was mailed on April 22, 2003.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the July 8, 2002 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1762 for processing of the Amendment, filed January 12, 2004, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

---

[1] Because the Office action reply period is set by statute, the maximum extendable period for reply was six (6) months (three (3) months to reply to the Notice, and a maximum of three (3) months of extensions of time). Thereafter, extensions of time were no longer available and the application became abandoned. Accordingly, a refund of the extension of time fees, $475.00, has been credited to Petitioner's deposit account as authorized in the instant petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

STEPTOE & JOHNSON, LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of :
Cole et al. : DECISION ON PETITION
Application No. 09/904,061 :
Filed: July 12, 2001 :
Atty Docket No. 83336.640 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO MPEP 711.03(C), PARAGRAPH I, AND 37 CFR §1.181" filed July 7, 2008.

By Notice of Abandonment mailed June 20, 2008, applicant was advised that the application was abandoned because the period for seeking court review after the decision rendered on May 9, 2008 by the Board of Patent Appeals and Interferences had expired and there were no allowed claims. See 37 CFR 1.304.

In response, applicant filed the instant petition along with a Request for Continued Examination (RCE), the RCE fee and a submission under 1.114(c) in the form of an amendment. Applicant submits that at the time of filing the RCE on July 7, 2008, the two month period for seeking court review, provided in 37 CFR 1.304(a)(1), had not expired.

Petitioner's argument is persuasive. As provided in MPEP 706.07(h), the filing of an RCE is timely within two months after a decision by the Board:

> The filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action in

> federal district court, will also result in the finality of the rejection or action being withdrawn and the submission being considered. Generally, the time period for filing a notice of appeal to the Federal Circuit or for commencing a civil action is within two months of the Board's decision. See 37 CFR 1.304 and MPEP § 1216. Thus, an RCE filed within this two month time period and before the filing of a notice of appeal to the Federal Circuit or the commencement of a civil action would be timely filed.

Thus, the RCE filed July 7, 2008 was timely filed. Further the RCE was proper as it included a submission and payment of the RCE fee.

Accordingly, the Notice of Abandonment mailed June 20, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3714 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment, for consideration by the examiner of the RCE timely filed July 7, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

PEARNE & GORDON
526 SUPERIOR AVENUE EAST
SUITE 1200
CLEVELAND, OH 44114

COPY MAILED

MAR 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Dongming Zhu et al	:	
Application No. 09/904,084	:	NOTICE
Filed: July 12, 2001	:	
Attorney Docket No. 33253US1	:	

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 1755.

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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AFX INC.
47929 FREMONT BLVD
FREMONT CA 94538

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FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Dany Berube	:	
Application No. 09/904,156	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. P015.01	:	

This is a decision on the petition, filed November 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This application issued into Patent No. 6,823,218 on November 23, 2004.

The petition is **DISMISSED as moot.**

Unfortunately, the petition reached the appropriate official for decision after the patent issued on the above-identified application. The inconvenience caused petitioner in this matter is sincerely regretted.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

The Request for Continued Examination (RCE) submitted with the petition is not effective and will not be entered since the petition to withdraw from issue is dismissed.

Petitioner is reminded that petitions to withdraw from issue should either be faxed to the Office of Petitions at (571) 273-0025 or hand carried to Madison Bldg. West, 600 Dulany St. Alexandria Va 22314.

Petitioner's attention is directed to 37 CFR 1.313(d), which states: A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue."

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

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

This patented file is being referred to Files Repository.

Karen Creasy

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

cc:
ALBERT C. SMITH
FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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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. 10

NUVASIVE INC
10065 OLD GROVE ROAD
SAN DIEGO, CA 92131

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AUG 04 2003

OFFICE OF PETITIONS

In re Application of :
Dan K. Ahlgren :
Application No. 09/904,179 : ON PETITION
Filed: July 11, 2001 :
Attorney Docket No. 5510US :

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)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 1, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 2, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

As to item (2), petitioner authorized that the petition fee be charged to Deposit Account No. 50-2040. Unfortunately, there were insufficient funds in the Deposit Account. Accordingly, the petition must be dismissed.

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

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

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

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

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

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

NUVASIVE INC
10065 OLD GROVE ROAD
SAN DIEGO, CA 92131

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Dan K. Ahlgren :
Application No. 09/904,179 : ON PETITION
Filed: July 11, 2001 :
Attorney Docket No. 5510US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 10, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The Deposit Account No. 60-2040 provided on the decision mailed August 4, 2003 was incorrect but when the Office of Finance attempted to withdraw the money from Deposit Account No. 50-2040, there were insufficient funds in the Deposit Account.

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, the over payment of $685.00 extension of time submitted with the petition on November 10, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center AU 3732.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 22

DELTAGEN, INC.
1003 HAMILTON AVENUE
MENLO PARK, CA 94025

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NOV 2 6 2003

OFFICE OF PETITIONS

In re Application of
Allen, Keith D.
Application No. 09/904,180
Filed: July 11, 2001
Attorney Docket No. R-477

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2003, 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 14, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 15, 2003. A Notice of Abandonment was mailed October 16, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item (1). The amendment submitted with the instant petition on October 24, 2003, failed to place the application in 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. An advisory action from the examiner is enclosed.

---

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

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

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

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

Karen Creasy

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

Enclosure: Advisory Action

cc: Kelly L. Quast
DELTAGEN, INC.
1031 Bing Street
San Carlos, CA 94070

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. 27

DELTAGEN, INC.
740 BAY ROAD
REDWOOD CITY, CA 94063

COPY MAILED

JAN 2 2 2004

OFFICE OF PETITIONS

In re Application of
Allen, Keith D.
Application No. 09/904,180
Filed: July 11, 2001
Attorney Docket No. R-477

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed January 9, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed January 14, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 15, 2003. A Notice of Abandonment was mailed on October 16, 2003.

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

The Change of Correspondence Address submitted with the instant petition on January 9, 2004, requests that the Correspondence Address be changed to both Customer Number 26619 and Deltagen, Inc., 1031 Bing Street, San Carlos, CA, 94070. As the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved in favor of the address of the Customer Number. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The file is now being forwarded to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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

cc: Kelly L. Quast
1031 Bing Street
San Carlos, CA 95051

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. 36

JOHN E. BURKE
GREENBERG TRAURIG LLP
1200 17TH STREET, SUITE 2400
DENVER, CO 80202

COPY MAILED

JUN 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Allen, Keith D. :
Application No. 09/904,180 :
Filed: July 11, 2001 :
Attorney Docket No. R477/75658.371 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 15, 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 Corrected Notice of Allowance mailed June 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 16, 2004. A Notice of Abandonment was mailed on November 8, 2004.

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

The file is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of	:
Gary A. Demos	:
Application No. 09/904,192	: DECISION GRANTING PETITION
Filed: July 11, 2001	: UNDER 37 CFR 1.137(f)
Attorney Docket No. 07314-010001	:

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 July 11, 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 2613 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

AUG 27 2003

UNITED STATES PATENT & TRADEMARK FFICE

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

MAILED

AUG 27 2003

OFFICE OF THE DIRECTOR
TC 3600

GOULD & MERCHANT PC
P. O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Paper No. 9

In re Application of
Andrea Griseri et al
Application No. 09/904,234
Filed: July 12, 2001
For: BEARING-HUB UNIT FOR MOTOR VEHICLE WHEEL

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER 37 CFR 1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed May 15, 2003 requesting withdrawal of the holding of abandonment of the instant application.

The petition is **GRANTED.**

The record reflects that on September 13, 2002 an Office action was mailed requiring an election of a single disclosed species for prosecution on the merits and a listing of all claims readable thereon between the disclosed species shown in Figures 2-3 and Figure 4. Claim 1 was indicated as being generic. The examiner further stated that an indication that "at least" claims would not be an indication of all the claims readable upon the elected species. On December 23, 2002, applicants' elected with traverse the embodiment of Figure 4 and indicated that at least claims 1, 3, 4, and 5 read upon the elected species. On April 28, 2003 an Office action was mailed indicating that the reply filed on December 23, 2002 was not fully responsive as applicants' statement of "at least" claims 1, 3, 4, and 5 read upon the elected species is not an indication of all the claims readable upon the elected species and that a fully responsive reply must be filed within the statutory period for reply provided for in the Office action mailed September 13, 2002.

Applicants' argue that the reply of December 23, 2002 was fully responsive because it identified claims 1, 3, 4, and 5 as being elected. MPEP 809.02(a) states to be complete, a reply to a requirement made according to this section should include a proper election along with a listing of all claims readable thereon, including any claims subsequently added. 37 CFR 1.135(c) states that when reply by applicant is a *bona fide* attempt to advance the application to final action, and is substantially a complete

reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under 37 CFR 1.134 to supply the omission. MPEP 714.03 states that where an amendment is *bona fide* but contains a serious omission, the examiner should if there is insufficient time remaining for applicants' reply to be filed within the time period for reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a)), issue an Office action setting a 1-month time period to complete the reply pursuant to 37 CFR 1.135(c). Since applicants' response to the Office action of September 13, 2002 indicates that "at least" claims 1, 3, 4, and 5 read upon the elected species it does not provide an explicit indication of all of the claims which are readable upon the elected species. Therefore, the examiner's holding of applicants' reply filed December 23, 2002 as non-responsive is proper. However, in accordance with MPEP 714.03 the examiner should have set a 1-month time period to complete the reply pursuant to 37 CFR 1.135(c). Accordingly, applicant's request to withdraw the holding of abandonment of the instant application is granted.

The reply filed on December 23, 2002 is not fully responsive to the prior Office action because it fails to provide an explicit indication of all claims readable upon the elected species. Since the above mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

The application will be returned to the central files of Technology Center 3600 to await applicants' reply.

D. Glenn Dayoan, Acting Director
Patent Technology Center 3600
(703) 308-1020

db/snm: 8/18/03
SM

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)
6,952,676	2005-10-04	09/904,256	2001-07-11	

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	/William W. Schaal/	Date (YYYY-MM-DD)	2009-11-19
Name	William W. Schaal	Registration Number	39018

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. 6952676
Issue Date: October 4,2005
Application No. 09904256
Filed: July 11,2001
Attorney Docket No. 685.01-US1

:

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

:

This is a decision on the electronic petition, filed November 19,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 19,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES 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 Oct-07

MERCHANT & GOULD PC
PO BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

OCT 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Haataja et al.	:	DECISION ON PETITION
Application Number: 09/904280	:	
Filing Date: 07/12/2001	:	
Attorney Docket Number:	:	
2316.869USRE	:	

This is a decision on the petition under 37 CFR 1.47(a) filed on 20 September, 2007, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by all of the named inventors.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED.**

REVIEW OF FACTS

1. On 12 July, 2001, the application was filed as an application for reissue of U.S. Patent No. 5,923,753.

2. On 12 July, 2001, a reissue declaration naming Timothy Jon Haataja, Thomas Walter Kampf, Wayne Albin Johnson, and Gary F. Nault was filed.

3. On 8 February, 2006, a final Office action was mailed, setting a three (3) month shortened statutory period for reply.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

4. On 12 June, 2006 (certificate of mailing date 8 June, 2006), a Request for Continued Examination (RCE) and an amendment as the required submission under 37 CFR 1.114, were filed. A petition for a one (1)-month extension of time under 37 CFR 1.136(a) was also filed.

5. On 20 September, 2007, the present petition was filed, stating that previously signing inventor Nault could not be located to sign the declaration.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of Gary Nault on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Nault on the supplemental declaration filed on 20 September, 2007.

CONCLUSION

1. The petition is granted.

2. It is noted that petitioners submitted $200.00 with the present petition. Effective 8 December, 2004, however, the fee for a petition under 37 CFR 1.183 is $400.00. As such, the balance of $200.00 will be charged to counsel's deposit account, No. 13-2725 as authorized in the transmittal letter filed with the present petition on 20 September, 2007.

3. The application is being referred to Technology Center Art Unit 2614 for further processing.

4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-9282.

Kenneth M. Schor

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/10/06

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/904281** Patent No.: **6992990**

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. 128

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: _____

Hung Fu Chan — **SPE**

2616 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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O'KEEFE, EGAN & PETERMAN
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
#C200
AUSTIN, TX 78746

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of Steven E. Parker Application No. 09/904,289 Filed: July 12, 2001 Attorney Docket No. L3BB:003	: : : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on January 9, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed June 30, 2005, which set a shortened statutory period for reply of three (3) months. Since no extensions of time under the provisions of 37 CFR 1.136(a) was obtained, the above application became abandoned after midnight on September 30, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of one (1) sheet of drawings containing Figure 7 and $1,020 for a three (3) months extension of time, filed on January 9, 2006. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $1,020 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 2613, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 21, 2006

TO SPE OF : ART UNIT 2157

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/904300 Patent No.: 7,051,119 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
CENTER 2100

SPE

2157
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

FEB 28 2002

Jon M. Jurgovan
Morris Manning & Martin
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, GA 30326

In re Application of
Toomy
Application No. 09/904,348
Filed: July 12, 2001

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed October 12, 2001, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, Section II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(I) and a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has good knowledge of the pertinent prior art.

The petition satisfies the above-listed requirements for special status.

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, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

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

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

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

Inquiries regarding this decision should be directed toMichael L. Gellner at 703-308-1721.

M. L. Gellner

Michael L. Gellner, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 14

John R. Harris
MORRIS, MANNING & MARTIN, LLP
1600 Atlanta Financial Center
3343 Peachtree Road NE
Atlanta, GA 30326-1044

APR 18 2003

In re Application of:	:	
Patrick Toomey	:	DECISION ON REQUEST TO
Application No. 09/904,348	:	WITHDRAW FROM RECORD
Filed: July 12, 2001	:	
Attorney Docket No.: 9925/34713	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed on April 10, 2003.

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

The request meets all the above stated requirements. The request was signed by John R. Harris on behalf of himself, and all the attorneys of record. There is at least thirty days remaining in the period for response to the outstanding Office action.

The request is **APPROVED**.

The are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Patrick Toomey, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

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

cc: Patrick Toomey
Moisture Vision
6820 Meadowridge Court, Suite A-2
Alpharetta, GA 30006

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Paper No. 18

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FEB 04 2004

OFFICE OF PETITIONS

Eliza I. Stefaniw
PO Box 70110
Washington, DC 20024

In re Application of
Patrick Toomey
Application No. 09/904,348
Filed: July 12, 201
Attorney Docket No. 9925/34713

ON PETITION

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 Dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 23, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 24, 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 lack(s) item(s) (1).

As to item (1), 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 October 23, 2002. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee

required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application. Alternatively, the reply requirement may be met by the filing of a submission under 37 CFR 1.129(a) if the above-identified application is eligible for such transitional practice.

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 $475 extension of time submitted with the petition on November 25, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is (703) 872-6906.

Any questions concerning this matter may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

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

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 20

PATRICK TOOMEY
MOISTURE VISION
6820 MEADOWRIDGE COURT
SUITE A-2
ALPHARETTA, GA 30006

COPY MAILED
JUL 1 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Toomey, Patrick	:	
Application No. 09/904,348	:	ON PETITION
Filed: July 12, 2001	:	
Attorney Docket No. 9925/34713	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed April 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed October 23, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on January 24, 2003. A Notice of Abandonment was mailed on July 28, 2003.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the 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.

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

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

Liana Chase

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

cc: ELIZA STEFANIW
P.O. BOX 70110
WASHINGTON, DC 20024

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

Thomas Kayden Horstemeyer & Risley
100 Galleria Parkway, Suite 1750
Altanta, GA 30339-5948

COPY MAILED

JAN 24 2002

OFFICE OF PETITIONS

In re Application of
Roman et al.
Application No. 09/904,350
Filed: July 12, 2001
For: Patient Qualifying and Selection Process

DECISION GRANTING
PETITION

This is a decision on the petition filed September 10, 2001, requesting that nine sheets of drawings be entered into the application and that the application be accorded a filing date of July 12, 2001.

The petition is granted.

The application was deposited on July 12, 2001. On August 30, 2001, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application was deposited without drawings and that the filing date would be the date of receipt of the missing items.

In response, on September 10, 2001, the present petition was filed. Petitioner asserts that nine sheets of drawings containing Figures 1-4, 5A-5C, and 6A-6B were in fact submitted with the application on July 12, 2001. In support of this assertion, petitioner has submitted a copy of a stamped return post card which acknowledges receipt by the PTO on July 12, 2001 of nine sheets of drawings. Additionally, petitioner has submitted a copy of the drawings asserted to have been filed with the application on July 12, 2001.

MPEP 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." In view of the acknowledged receipt of the nine sheets of drawings, the drawings indicated by the PTO as having been missing will be accepted as having been present on filing. Accordingly, the Notice mailed August 30, 2001 is vacated.

In view of the above, the $130 petition fee will be credited to petitioner's deposit account, as authorized.

This application file is being forwarded to the Office of Initial Patent Examination Division for processing with a filing date of July 12, 2001, using the drawings received on September 10, 2001 and with an indication that nine sheets of

drawings of Figures 1-4, 5A-5C and 6A-6B were present on filing. Additionally, a corrected Filing Receipt will be mailed in due course.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 12 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

INTELLECTUAL PROPERTY LAW OFFICE
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL CA 95008

In re Application of)
You Zhang)
Application No. 09/904,372)
Filed: July 11, 2001)
For: **LOAD-SHARED DISTRIBUTION OF A SPEECH SYSTEM**)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on December 20, 2004.

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

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

All attorneys/agents of Record are withdrawn.

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

CC:

Appiant Technologies Inc.
6663 Owens Drive
Pleasanton, CA 94588

#8
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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JUL 21 2003

MAILED

JUL 21 2003

OFFICE OF THE DIRECTOR
TC 3600

Keeling Hudson, L.L.C.
901 North Post Oak Road
Houston, TX 77024-3845

In re Application of
Mark James Yunker et al.
Application No. 09/904,387
Filed: July 12, 2001
For: SLIDE FOR SORTING MACHINE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicants' communication filed in the United States Patent and Trademark Office on April 22, 2003. That communication is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181

The petition is **DENIED**.

A review of the file record indicates that an Office action was mailed on October 9, 2002. Since no response to the October 9, 2002 Office action has been received, the application is held abandoned since the six month statutory period for reply has expired, although a Notice of abandonment has yet been mailed.

Applicants' petition includes a copy of a response having a Certificate under 37 CFR 1.8(a) signed by Kenneth A. Keeling. A statement under 37 CFR 1.8(b)(3) was received from Kenneth A. Keeling on June 27, 2003. In that statement, Kenneth A. Keeling attests to having transmitted the response via facsimile on December 27, 2002. However, the Certificate is dated December 26, 2002. Thus, the copy of the response filed with the petition can not be accorded a filing date of December 26, 2002. Since applicants did not timely file a response to the October 9, 2002 Office action, the holding of abandonment will not be withdrawn.

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 1.181."

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

SNM/tpl: 7/17/03

#13
DW

UNITED STATES 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 14 2004

MAILED

JAN 14 2004

OFFICE OF THE DIRECTOR
TC 3600

Keeling Hudson, L.L.C.
901 North Post Oak Road
Houston, TX 77024-3845

In re Application of
Mark James Yunker, et al.
Application No. 09/904,387
Filed: July 12, 2001
For: SLIDE FOR SORTING MACHINE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's renewed petition to withdrawal the holding of abandonment filed on August 28, 2003.

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 December 26, 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/1/8/04

KENNETH J. DORNER
SPECIAL PROGRAMS 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

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

MAILED

APR 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Kohanek et al.	:	
Application No.: 09/904,425	:	DECISION
Filing or 371(c) Date: 07/12/2001	:	ON PETITION
Attorney Docket Number 21223/0211061-US0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2009, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed July 31, 2002. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on November 1, 2002. A Notice of Abandonment was mailed March 26, 2003.

The February 2, 2009 petition

Applicants filed a petition to revive the application based upon unintentional delay on February 2, 2009, which was dismissed in a Decision mailed November 2, 2009, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

The present renewed petition

Applicant files the present renewed petition and the required showing as to the unintentional delay. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includs (1) the reply in the form of an Amendment; (2) the petition fee, and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 2859 for processing of the Amendment filed electronically on February 2, 2009, and for further examination in the normal course of business.

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 14, 2008

TO SPE OF : ART UNIT 2611

09/904,432

SUBJECT : Request for Certificate of Correction for Appl. No 09/904432 patent no7295623

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Applicant has made corrections which do not add new matter and do not affect the scope of the claims. LW 11/4/2009

M. [signature]

SPE

2611

Art Unit

PTOL-308 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

Elsa Keller
Siemens Corporation
Intellectual Property Dept.
186 Wood Avenue South
Iselin, NJ 08830

COPY MAILED

MAY 24 2002

OFFICE OF PETITIONS

In re Application of
Randall et al.
Application No. 09/904,444
Filed: July 12, 2001
Attorney Docket No. Randall et al.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed August 24, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. On January 7, 2002 a Declaration and a two month extension of time was filed and in reply a Notice of Incomplete Reply was filed on February 28, 2002. Accordingly, the application became abandoned on January 8, 2002.

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

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES C. SCHELLER, JR.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

COPY MAILED
JUL 1 6 2002
OFFICE OF PETITIONS

In re Application of :
Marcel Zvi Schreiber :
Application No. 09/904,457 :
Filed: July 6, 2001 :
Attorney Docket No. 3394p007x :

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 2100.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

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

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of	:
Marcel Zvi Schreiber et al	:
Application No. 09/904,457	: DECISION GRANTING PETITION
Filed: July 6, 2001	: UNDER 37 CFR 1.137(f)
Attorney Docket No. 06055.P001X	:

This is a decision on the petition, filed March 25, 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 March 26, 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 July 17, 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 2173 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2/13/05

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 6878807 B2

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

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

Thank You For Your Assistance

Virginia Tolbert
Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1646
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

9/904462

Paper No.: ____

DATE : 7/13/05

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 6878807 B2

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

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

Thank You For Your Assistance

Virginia Tolbert
Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1646
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

SEP 21 2007

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Patent No. 6,878,807 DESNOYERS et al
Issue Date: April 12, 2005
Appl No.: 09/904,462
Filed: July 13, 2001
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed May 23, 2006, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: September 20, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,878,807 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,878,807
Patented: April 12, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Luc Desnoyers
Audrey Goddard
Paul J. Godowski
Austin Gurney
Kenneth J. Hillan
William I. Wood
Ellen Filvaroff

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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)
6,645,731	2003-11-11	09/904,472	2001-07-13	IMMC 303

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	/Joseph F. Aceto/	Date (YYYY-MM-DD)	2009-01-12
Name	Joseph F. Aceto	Registration Number	50701

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6645731
Issue Date: November 11,2003
Application No. 09904472
Filed: July 13,2001
Attorney Docket No. IMMU.RAPIDASSAYDIV.

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

This is a decision on the electronic petition, filed January 12,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 12,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

JUL 19 2007

OFFICE OF PETITIONS

In re Application of :
Hattori et al. :
Application No. 09/904497 :
Filing or 371(c) Date: 07/16/2001 :
Attorney Docket Number: :
211371US2RD : ON PETITION

This is a decision on the Petition Under 37 CFR 1.181(a) to Withdraw Holding of Abandonment, filed May 4, 2007.

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 27, 2006. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on December 28, 2006. A Notice of Abandonment was mailed April 9, 2007.

Applicant's Assertion

Applicant files the present petition and asserts that a timely response to the Office action was filed on March 27, 2007, including a three (3) month extension of time. In support of this assertion, applicant files a copy of the reply, which includes a Certificate of Mailing under 37 CFR 1.8, along with a copy of a return-receipt postcard which acknowledges receipt by this Office of an Amendment under 37 CFR 1.111; Petition for Extension of Time 3-months; Dep. Acct. order Form, and Credit Card Form for $1020.00.

A review of Office records also reveals that the Office received an Amendment and three-month Extension of Time and fee on March 27, 2007.

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 3627 for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

John W. Ryan
WILMER CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037-6000

COPY MAILED
JUL 0 3 2002
OFFICE OF PETITIONS

In re Application of :
Andrei Kolichtchak :
Application No. 09/904,502 : ON PETITION
Filed: July 16, 2001 :
Attorney Docket No. 702265.0005 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Non-Provisional Application mailed August 27, 2001. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 28, 2001.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $720.00 extension of time submitted with the petition on May 21, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Technology Center 2100

Paper No. 6

John W. Ryan
WILMER CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037-6000

COPY MAILED
JUL 0 3 2002
OFFICE OF PETITIONS

In re Application of :
Andrei Kolichtchak :
Application No. 09/904,502 :
Filed: July 16, 2001 :
Attorney Docket No. 702265.0005 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Non-Provisional Application mailed August 27, 2001. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 28, 2001.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $720.00 extension of time submitted with the petition on May 21, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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

Sherry Brinkley
Petitions Examiner

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& PICKERING

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APR 0 4 2005
PATENT & TRADEMARK OFFICE

Attorney's Docket No.: 11365-043002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Hiroshi Kobata et al.	Art Unit :	3621
Serial No.	: 09/904,563	Examiner :	Kambiz Abdi
Filed	: July 16, 2001	Confirmation No.:	2322
Title	: CONTROLLING AND MANAGING DIGITAL ASSETS		

Attention: Group Director
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPROVED
4/4/06

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD

With authorization, the undersigned attorney, on behalf of himself and the other attorneys of record, who are members or associates in the firm of FISH & RICHARDSON P.C., or who were so listed at the time of their appointment, and on behalf of any associate attorneys appointed by any of the attorneys on whose behalf this petition is filed, requests the approval of the Commissioner to withdraw as attorney(s)/agent(s) of record.

The present mailing address of the attorney(s)/agent(s) of record is:

Fish & Richardson P.C. (Washington, DC)
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

Please mail all future correspondence to the applicant:

Atabok Japan, Inc.
c/o Toby Tsuchida
Special Assistant to CEO, Director of
Corporate Strategy
Atabok, Inc.
29 Crafts Street, Suite 300
Newton, MA 02458

The reasons for which the permission of the Commissioner is sought for withdrawal of the attorney(s)/agent(s) of record is the applicant has decided to directly handle prosecution.

Notice of the attorney's request to withdraw is being sent simultaneously to the applicants and the relevant papers and files will be sent promptly to the applicants.

A response is due to an Office action mailed on March 23, 2005. The last date on which a response, a petition for extension of time and fee could properly be filed is on September 23, 2005. This request is being filed more than 30 days prior to September 23, 2005. See MPEP 402.06.

Two copies of this request are filed herewith. The Commissioner is authorized to apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: April 4, 2005

John F. Hayden
Reg. No. 37,640

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331

40274320.doc

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APR 0 4 2006

Attorney's Docket No.: 11365-043001

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PATENT & TRADEMARK OFFICE

TECHNOLOGY CENTER 3600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Hiroshi Kobata et al.	Art Unit :	3621
Serial No. :	09/904,564	Examiner :	Salvatore A. Cangialosi
Filed :	July 16, 2001	Confirmation No.:	2321
Title :	CONTROLLING AND MANAGING DIGITAL ASSETS		

MAIL STOP PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPROVED
4/4/06

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD

With authorization, the undersigned attorney, on behalf of himself and the other attorneys of record, who are members or associates in the firm of FISH & RICHARDSON P.C., or who were so listed at the time of their appointment, and on behalf of any associate attorneys appointed by any of the attorneys on whose behalf this petition is filed, requests the approval of the Commissioner to withdraw as attorney(s)/agent(s) of record.

The present mailing address of the attorney(s)/agent(s) of record is:

Fish & Richardson P.C. (Washington, DC)
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

Please mail all future correspondence to the applicant:

Atabok Japan, Inc.
c/o Toby Tsuchida
Special Assistant to CEO, Director of
Corporate Strategy
Atabok, Inc.
29 Crafts Street, Suite 300
Newton, MA 02458

The reasons for which the permission of the Commissioner is sought for withdrawal of the attorney(s)/agent(s) of record is the applicant has decided to directly handle prosecution.

Notice of the attorney's request to withdraw is being sent simultaneously to the applicants and the relevant papers and files will be sent immediately to the applicants.

A response is due to an Office action mailed on January 7, 2005. The last date on which a response, a petition for extension of time and fee could properly be filed is on July 7, 2005. This request is being filed more than 30 days prior to July 7, 2005. See MPEP 402.06.

Two copies of this request are filed herewith. The Commissioner is authorized to apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: March 31, 2005

John F. Hayden
Reg. No. 37,640

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331

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Paper No. 11

SARAH MEEKS ROBERTS
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

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FEB 27 2004

OFFICE OF PETITIONS

In re Application of	:	
Slusarek, et al.	:	
Application No. 09/904,616	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. 81080ACPK	:	

This is a decision on the alternative petition to withdraw the holding of abandonment under 37 CFR 1.181, and the petition to revive under 37 CFR 1.137(b), filed July 16, 2003. The Office apologizes for the delay.

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

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

The above-identified application was held abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment mailed February 8, 2002. This Notice set a shortened statutory period for reply of one month or thirty days, which ever was longer. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on March 11, 2002. A Notice of Abandonment was mailed on July 16, 2002.

37 CFR 1.8(b) states:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

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

On petition, applicants have submitted a copy of an amendment bearing a Certificate of Transmission dated March 8, 2002. In addition, applicants have included a copy of the facsimile machine confirmation report and attested to the timely transmission.

In view of the above, the holding of abandonment is **WITHDRAWN**.[1]

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to Group Art Unit 1621 for consideration of the amendment filed July 16, 2003 (Certificate of Transmission timely dated March 8, 2002) and the supplemental IDS filed on April 15, 2002.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] Note that petitions to withdraw the holding of abandonment under 37 CFR 1.181 not filed within two months of the notice of allowance **may** be dismissed as untimely.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Crutcher, et al.	:	
Application No. 09/904,646	:	ON PETITION
Filed: July 12, 2001	:	
Attorney Docket No. 42390P10469	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 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)." There is no fee for the renewed petition. This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed March 7, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 8, 2005. A Notice of Abandonment was mailed on December 22, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition lacks item (1), the required reply.

With the instant petition, petitioner filed an amendment in reply to the final Office action. However, the examiner has determined that the amendment did not *prima facie* place the application in condition for allowance.

On renewed petition, petitioner must submit a proper reply in response to the final Office action. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (4) a request for a continuing examination (RCE) under 37 CFR 1.114.

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 regarding this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Crutcher, et al.	:	
Application No. 09/904,646	:	ON PETITION
Filed: July 12, 2001	:	
Attorney Docket No. 42390P10469	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed March 20, 2006.

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 7, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 8, 2005. A Notice of Abandonment was mailed on December 22, 2005. Applicant filed a petition to revive under 37 CFR 1.137(b) on December 30, 2005. However, the petition was dismissed in a decision mailed

on January 17, 2006.

With the instant renewed petition, petitioner submitted the required reply in the form of an RCE. The other requirements for a grantable petition were fulfilled on December 30, 2005.

The matter is being forwarded to Group Art Unit 2153 for consideration of the RCE filed March 20, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAY 19 2005

OFFICE OF PETITIONS

In re Application	:	
Tebbe	:	
Application No. 09/904,674	:	PATENT TERM ADJUSTMENT
Filed: July 13, 2001	:	
Dkt. No.: 4452-398	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705," filed March 8, 2004. This request is being treated under 37 CFR 1.704(b) as an application for patent term adjustment. The required application fee of $200.00 has been charged to Deposit Account No. 03-2412.

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 102 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 46 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 September 14, 2002, the day after the date that is fourteen months after the date on which the application was filed, and ended October 29, 2002, the date the non-final Office action was mailed.

A further adjustment of 82 days under 37 CFR 1.702(a)(2) was attributable to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began May 6, 2003, the day after the date that is four months after the date a reply under § 1.111 was filed, and ended August 26, 2003, the date the second non-final Office action mailed.

The Office errantly entered August 4, 2003 as the date a reply to the non-final Office action mailed October 29, 2002 was filed

rather than February 5, 2003, the date the response was in fact received as evidenced by the copy of the stamped and dated postcard evidencing receipt of the response by the Office.

Accordingly, the periods of adjustment under 37 CFR 1.703 are reduced seven days in accordance with 37 CFR 1.704(b) for applicant's failure to engage in reasonable efforts to conclude prosecution. The delay began January 30, 2003, the day after the date that is three months after the date of mailing of the first non-final Office action, and ended February 5, 2003, the date a response was filed.

The periods of adjustment under 37 CFR 1.703 are further reduced 19 days in accordance with 37 CFR 1.704(b) for applicant's failure to engage in reasonable efforts to conclude prosecution. The delay began November 27, 2003, the day after the date that is three months after the date of mailing of the second non-final Office action, and ended December 15, 2003, the date a response was filed.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 102 days as argued by applicants.

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

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

Paper No. 10

GEORGE S. BLASIAK
WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET, SUITE 400
SYRACUSE, NY 13202

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DEC 16 2002

OFFICE OF PETITIONS

In re Application of
Michael Ehrhart et al
Application No. 09/904,697
Filed: July 13, 2001
Attorney Docket No. 283-300

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed November 27, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **DISMISSED**.

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

Petitioner states that, subsequent to the filing of the instant application and the concurrently filed nonpublication request under 35 U.S.C. § 122(b), PCT Application PCT/US02/22353 claiming priority to the present U.S. application was filed on July 10, 2002; however, notice of such foreign filing was not provided to the U.S. Patent and Trademark Office.

The instant petition fails to provide a notice rescinding the nonpublication request. Accordingly, before revival pursuant to the provisions of 37 CFR 1.137(f) can be effected, petitioner must submit a request to rescind the previous nonpublication request. For petitioner's convenience, a blank Request to Rescind Previous Nonpublication Request accompanies this decision on petition.

In order to expedite revival of this application, petitioner may wish to consider submitting the items required by this decision on petition in a renewed petition

under 37 CFR 1.137(f) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

By mail: **U.S. Patent and Trademark Office**
P.O. Box 2327
Mail Stop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

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

Frances Hicks

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

ATTACHMENT: Request to Rescind Pevious Nonpublication Request Form

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

WALL MARJAMA & BILINSKI
SUITE 400
101 SOUTH SALINA STREET
SYRACUSE, NY 13202

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DEC 27 2002

OFFICE OF PETITIONS

In re Application of
Michael Ehrhart et al
Application No. 09/904,697
Filed: July 13, 2001
Attorney Docket No. 283-300

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.137(f) AND
:MAILING OF PUBLICATION FEE
:DUE

This is in response to the communication received by facsimile transmission on December 23, 2002, which is being treated as a renewed petition , to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on July 10, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of April 3, 2003 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Issue Fee Due were mailed in this case on November 5, 2002. However, in view of the nonpublication request filed with the application, the Notice of Allowance mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

This application is being forwarded to Publishing Division to await a reply to the Notice of Allowance and Issue Fee Due mailed November 5, 2002 and to the Notice of Publication Fee Due mailed December 27, 2002.

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

Frances Hicks

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

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

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
MINNEAPOLIS MN 55402

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APR 27 2006
OFFICE OF PETITIONS

In re Application of
Maggioncalda et al.
Application No. 09/904,707
Filed: July 12, 2001
Attorney Docket Number: 59036-249737
Title of Invention: User Interface for a Financial Advisory System that Allows an End User to Interactively Explore Tradeoffs Among Input Decisions

ON PETITION

This is a decision on the petition filed March 14, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed December 7, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 8, 2006. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 30 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LESLIE A. MOOI
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of	:
Avi Ashkenazi et al	:
Serial No.: 09/904,766	: DECISION ON PETITION
Filed: 12 July 2001	:
Attorney Docket No.: 10466/70	:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed 17 January 2006 requesting (1) that the rejections containing the six new references which have been used by the examiner in the Examiner's Answer be designated as new grounds of rejection; (2) that the examiner provide a corrected Examiner's Answer which identifies the rejections as new grounds of rejection; and (3) that prosecution be reopened because of these new grounds of rejection.

BACKGROUND

On 03 November 2004, following issuance of a Final Office action, applicants filed a Request for Continued Examination. The examiner reopened prosecution and mailed to applicants a first action FINAL rejection on 13 January 2005. Applicants filed a Notice of Appeal on 13 June 2005 and an Appeal Brief on 13 September 2005. The examiner mailed to applicants an Examiner's Answer on 15 November 2005. Applicants filed a Reply Brief on 17 January 2006 along with a request for an Oral Hearing and this petition.

DISCUSSION

In the Examiner's Answer the examiner relied extensively on six new references in order to support the lack of utility and lack of enablement rejections. These new references are:

Hittelman, 2001, Ann NY Acad. Sci. 952: 1- 12.
LaBaer, 2003, Nature Biotechnology 21: 976 - 977.
Chen et al., 2002, Molecular and Cellular Proteomics 1 : 304 - 313.
Gygi et al., 1999, Mol. Cell. Biol. 19 : 1720 - 1730.
Lian et al., 2001, Blood 98 : 513 - 524.
Fessler et al., 2002, J. Biol. Chem. 277 : 31291 - 31302.

The statutory basis of the rejections (35 U.S.C. 101 and 112, first paragraph) in the Examiner's Answer did not change from the FINAL office action mailed to applicants on 13 January 2005. However, it is clear that the examiner used the additional six new references to reinforce these rejections and rebut more thoroughly applicants' arguments. While the applicants did respond to these new arguments and new references raised by the examiner in the Examiner's Answer in their Reply Brief, they argue that they have been placed at a disadvantage because they are limited in their ability to present substantive evidence of their own in response to these new references and arguments without reopening prosecution being granted.

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting (1) that the rejections containing the six new references which have been used in the Examiner's Answer be designated as new grounds of rejection; (2) that the Examiner provide a corrected Examiner's Answer which identifies the rejections as new grounds of rejections; and (3) that the FINALITY be withdrawn and that prosecution be reopened because of these new grounds of rejection is **GRANTED-IN-PART.**

Applicants' first request that the rejections in the Examiner's Answer be designated "new grounds of rejection" is **GRANTED**.

Applicants' second request has been effectively granted by this Decision on Petition designating the rejections in the Examiner's Answer to be "new grounds of rejection." The further request for the corrected Examiner's Answer is deemed to be moot in view of this Decision on Petition and therefore, **DISMISSED**.

Applicants' third request to have the FINALITY of the application withdrawn and prosecution reopened is **GRANTED** as this is a proper request under the Rules of Prosaecution when a new ground of rejection is advanced in an Examiner's Answer. (Alternatively, applicants may rely solely on their Reply Brief and proceed to the Board.)

In view of applicants' expressed limited ability to present new evidence, as noted above, applicants are given TWO MONTHS from the mailing date of this Decision within which to submit any additional arguments, exhibits, affidavits or other evidence which they consider necessary in order to rebut the examiner's new grounds of rejection set forth in the Examiner's Answer. Failure to make any submission will be taken as applicants' agreement to rely solely on the already submitted Reply Brief

This application is being returned to the examiner for consideration of the Reply Brief which will be treated as a reply to a new "Non-Final" rejection set forth in the Examiner's Answer and further action not inconsistent with this decision.

Applicants have been charged a fee of $130.00 for this petition. However, since there should be no charge for this petition, this $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

Should there by any questions regarding this decision, please contact Special Program Examiner, 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

George C. Elliott
Director, Technology Center 1600

09/904824

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 19, 2005

TO SPE OF : ART UNIT 2182 Christopher Shin 67688

SUBJECT : Request for Certificate of Correction on Patent No.: 6877044 B2

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

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

Thank You For Your Assistance

Antonio Johnson
Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 112

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

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

Comments:

The Certificate of Correction is consistent with the Examiner's Statement of Reasons for Allowance.

KIM HUYNH
SPE ~~PRIMARY EXAMINER~~

10/20/05
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gordon R. Lindeen III
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Paper No. 5

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JAN 2 4 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Shah-Nazaroff et al.
Application No. 09/904,825
Filed: August 20, 2001
Attorney Docket No. 42390.P6488C

This is a decision on the Request for Correction of Filing Receipt, filed December 9, 2002, which is being treated as a petition under 37 CFR 1.53, requesting that the application be accorded a filing date of July 12, 2001, including omitted Figures 8 and 9.

The petition is dismissed.

The application was deposited on July 12, 2001, without drawing Figures 8 and 9 described in the specification. As a result, on August 9, 2001, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice") stating that a filing date (of July 12, 2001), had been accorded the application; however, drawing Figures 8 and 9 appeared to have been omitted from the application.

The Notice provided Petitioner with three options: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "An applicant willing to accept the application as deposited in the USPTO need not respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

Petitioner filed a petition in response to the Notice, along with drawing Figures 8 and 9, on August 20, 2001 (Certificate of Mailing dated August 16, 2001). In that petition, "[a]pplicants petition[ed] to accept the date of this submission as the application filing date." *Petition* at p.1.

Accordingly, the application has been issued a filing date of August 20, 2001, including drawing Figures 8 and 9 filed on that date. The Request for Correction of Filing Receipt is thus denied.

The instant Request for Correction of Filing Receipt

The instant Request is accompanied by a copy of the return-receipt postcard, which reveals that the application was originally deposited on July 12, 2001, with 7 sheets of drawings which included 7 Figures. Accordingly, Petitioner's return-

receipt postcard fails to serve as *prima facie* evidence that Figures 8 and 9 were received at the USPTO on July 12, 2001. Accordingly, the filing date of the application remains August 20, 2001, including Figures 8 and 9 filed on that date.

It is also noted that petitioner may not rely on the Certificate of Mailing to obtain a filing date of August 16, 2001.

Applicable Law

While 37 C.F.R. § 1.8(a) provides for the timely filing of correspondence via mailing or facsimile transmission; however, 37 CFR § 1.8(a)(2) specifically states that

> [t]he procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:
>
> (I) Relative to Patents and Patent Applications-
>
> (A) The filing of a national stage patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for continued prosecution application under § 1.53(d);

Petitioner thus may not rely upon the Certificate of Mailing to obtain a filing date of August 16, 2001. However, drawing Figures 8 and 9 were received in the Office on August 20, 2001. Therefore, the application has been accorded a filing date of August 20, 2001. See MPEP 601.01(g).

The application is being returned to Technology Center AU 2611 for examination in due course, retaining the filing date of August 20, 2001.

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

Christina Tartera Donnell for

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

Conferee: Christina Donnell

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JJGJR.: 09-04

Paper No: __

STEVEN S. PAYNE
8027 ILIFF DRIVE
DUNN LORING VA 22027

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OFFICE OF PETITIONS

In re Application of
Sundstrom, et al. :
Application No. 09/904,837 :
Filing Date: 16 July, 2001
Attorney Docket No. 150-001 :

This is a decision on the petition filed on 16 July, 2001, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) **DISMISSED as moot** and without prejudice and, Petitioner may request a refund of the petition fee via Treasury check.

BACKGROUND

The record reflects that:

- Petitioner filed the instant application on 16 July, 2001;
- it appears Petitioner filed the instant petition contemporaneously with the filing of the instant application;
- there is no indication in Office records as that the instant application is child of a parent application, which parent may have gone abandoned and so trigger a need to revive the parent;
- it does not appear at this writing that a Notice of Abandonment ever was mailed by the Office in this application.

The record does not indicate that, as of the time the petition was filed, Petitioner had abandoned the instant application, and, as noted above, the Office has not held the application abandoned.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to Unintentional Delay

As indicated above, the application does not appear to have been abandoned.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **dismissed as moot**. Should Petitioner not wish/need to re-advance the instant petition, Petitioner may obtain a refund of the petition fee by submitting his request, with a copy of the instant decision, to Box Refund.

The file is held in the Office of Petitions to address another matter.

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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JJGJR.: 11-04

Paper No: __

STEVEN S. PAYNE
8027 ILIFF DRIVE
DUNN LORING VA 22027

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OFFICE OF PETITIONS

In re Application of
Sundstrom, et al. :
Application No. 09/904,837 :
Filing Date: 16 July, 2001
Attorney Docket No. 150-001 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 16 July, 2001.

The Office regrets the delay in addressing this matter. It is noted that messages were left for Petitioner by an attorney from the Office of Petitions to Petitioner on 18 and 19 November, 2004 (to request a document referenced in the petition but absent from the filing), however, as of this writing there has been no reply from Petitioner.

The petition is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the application was filed on 17 July, 2001, without, *inter alia*, a fully executed oath or declaration; and
- the instant petition was filed contemporaneously with the application;
- the petition references, *inter alia*, an oath/declaration signed by named inventors save for Olaf Johansson (Mr. Johansson); and a declaration by Petitioner Steven S. Payne (Reg. No. 35,316), and a copy of a letter from Petitioner to the non-signing inventor Mr. Johansson, however the copy of the letter to Mr. Johansson was not included with the filing.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> > (1)Identify the application to which it is directed;
> >
> > (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to

in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

Thus, a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted. (And a reasonable effort must be made to ascertain a current or last known address.)

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.[1]

CONCLUSION

Due to the absence of the referenced letter from Petitioner to Mr. Johansson transmitting materials, there is a question whether the submission clearly evidences that the entire application was sent to the alleged non-signing inventor. Petitioner should submit a copy of the transmittal letter (in English or in English translation declared by Petitioner to be accurate).

In addition, Petitioner must either provide that last known/current address or evidence that a reasonable and responsible effort has been made to ascertain that address to no avail.

Therefore, the instant petition must be and hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

---

[1] See: MPEP 409.03(b).

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

Telephone inquiries regarding this decision should 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
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P.O. Box 1450
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2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Parakash Chakravarthi et al :
Application No. 09/904,860 : DECISION ON PETITION
Filed: July 16, 2001 :
Attorney Docket No. A7790 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 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 November 14, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 14, 2006. Accordingly, the date of abandonment of this application is November 15, 2006. A Notice of Abandonment was mailed on December 8, 2006, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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OCT 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Takamitsu Asanuma et al :
Application No. 09/904,875 : ON PETITION
Filed: July 16, 2001 :
Attorney Docket No. 110108 :

This is a decision on the petition, filed October 21, 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 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 3748 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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).

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)
6,654,841	2003-11-25	09904905	2001-07-16	3092-229

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2008-08-02
Name	Bruce H. Troxell	Registration Number	26592

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6654841
Issue Date: November 25,2003
Application No. 09904905
Filed: July 16,2001
Attorney Docket No. BHT-3092-229

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed August 2,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 2,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Aug. 22, 2005

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction on Patent No.: 6,864,082

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.

See drawing petition response submitted 1month later than permitted! sp

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390x120

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:

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE

1632

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 18, 2007

TO SPE OF: ART UNIT 1646 Gary B. Nickol

SUBJECT: Request for Certificate of Correction for Appl. No.: 09/904,954 Patent No.: 6949366B2

Please respond to this request for 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**.

EXPEDITE!!

Thank You For Your Assistance

Antonia Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

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 request for COC for the title of the invention (9/19/06) and the COC for the assignee (6/27/06) are approved

Gary B. Nickol — SPE

1646 — Art Unit

OK to enter
PM 6/19/07

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 6,949,366 B2

DATED: March 7, 2006

INVENTORS: M. Patricia BECKMANN et al.

It is hereby certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the title page, item (73), the Assignee "Amgen Inc., Thousand Oaks, CA (US)" should read -- Immunex Corporation, Seattle, WA (US) --.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

Patent No. 6,949,366 B2

No. of additional copies
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MAR 20 2006

OK to enter
PM 6/19/07

PTO/SB/44 (04-05)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,949,366 B2

APPLICATION NO.: 09/904,954

ISSUE DATE : September 27, 2005

INVENTOR(S) : M. Patricia Beckmann and Douglas P. Cerretti

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the title page, item (54), the title, "CYTOKINES THAT BIND THE CELL SURFACE RECEPTOR HEK" should read -- DNA ENCODING A HEK-LIGAND POLYPEPTIDE --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Finnegan, Henderon, Farabow, Garrett, & Dunner LLP
901 New York Ave. NW
Washington, D.C. 20001-4413

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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MAR 16 2007

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LISA A. HAILE, J.D., Ph.D.
DLA PIPER US LLP
4365 EXECUTIVE DRIVE, SUITE 1100
SAN DIEGO, CA 92121-2133

In re Application of	:
GERMINO et al	:
Serial No.: 09/904,968	: Decision on Petition
Filed : 13 JULY 2001	:
Attorney Docket No.: JHU1680-2	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 20 October 2006. The delay in acting upon this petition is regretted.

BACKGROUND

The petition filed under 37 CFR 1.144 requests reconsideration of the restriction requirement mailed 23 May 2002. The restriction requirement mailed 23 May 2002 divided claims 1-67 into 45 groups and then required an election of a single sequence within every group.

After numerous communications, Applicants elected a group and a single primer pair, nested primer pair and polymorphism within that primer pair with traverse. The examiner considered the traversal and made the restriction requirement final in the Office action mailed 29 January 2004.

The claims have been amended by applicants and examined by the Office several times.

As of the most recent amendment, filed 10 October 2006, claims 5-15, 17, 26-27, 38, 43, 45-47, 53-54, 62-75 and 77 have been cancelled, leaving claims 1-4, 16, 18-25, 28-37, 39-42, 44, 48-52, 55-61, 76 and 78 pending. Of those pending, only claims 18, 30, and 58 have been withdrawn from consideration in their entirety. In addition, a sequence restriction was set forth and SEQ ID NO: 5, 6, 21, and 22 which are recited in the alternative in claims 1, 25, 44, and 60 are also withdrawn from prosecution. For those claims, elected primer pairs SEQ ID NO: 3 and

4 and SEQ ID NO: 19 and 20 were considered. The relevant features of the pending claims are described as follows:

Independent Claim 1 is directed to a product and has been amended to require a set of eight primers that flank 8 specific positions in polycystic kidney disease-associated protein-1 (PKD-1) gene. Claims 2-4, 16, and 19 depend, directly or indirectly, upon claim 1. Claim 18 depends from canceled claim 17.

Claim 1 requires that two primers are selected from SEQ ID NO: 3, 4, 5, and 6. Primers of SEQ ID NO: 3 and 4 were elected and are under examination. Primers of SEQ ID NO: 5 and 6 are treated as withdrawn, there being no allowable linking claim and there being no allowable claim directed to the elected species.

Claim 1 further requires two primers selected from SEQ ID NO: 19, 20, 21, and 22. Primers of with SEQ ID NO: 19 and 20 were elected and are under examination. Primers of SEQ ID NO: 21 and 22 are treated as withdrawn, there being no allowable linking claim and there being no allowable claim directed to the elected species.

Independent claim 20 is directed to a polynucleotide that comprises ten positions spanning residues 3335-3337 of PKD1 polynucleotide set forth in SEQ ID No 1. Claims 21-24 depend from claim 20.

Independent claims 25, 44 and 60 are directed to three methods which employ a nested amplification process which utilizes two sets of primers. Claims 28-37, 39-42, 48-52, 55-59, 61, 76 and 78 all refer back, directly or indirectly, to claims 25, 44 or 60, however the method claims do not require a set of eight primers.

This petition was filed 20 October 2006, before the filing of a Notice of Appeal, and is thus considered timely.

DISCUSSION

The petition has been considered carefully in terms of the claim set as it is now pending before the Office. The petition requests rejoinder of original groups 1-43, but because those groups are apparently not present in the current claim set, this request is dismissed.

The Office has already examined together claims 1-4, 16, 19-25, 28-29, 31-37, 39-42, 44, 48-52, 55-61, 76 and 78 pending to the extent that these claims read upon elected primer pairs (SEQ ID No 3 and 4; SEQ ID NO 19 and 20). No claim is currently in condition for allowance. Claims 18, 30, and 58 are currently withdrawn from consideration. Claims 30, and 58 depend originally from claims currently under examination and as such, are the only subject matter which is now being restricted apart from the claim set. Claim 18 is currently indicated as withdrawn but depends from a canceled claim.

MPEP 803 discusses the two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
(B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

In this particular instance, the Office will not maintain its position that concurrent examination of all claims pending at the time this petition was filed, 20 October 2006, would pose a serious burden because the two claims withdrawn from examination, claims 30 and 58, depend from and require all the limitations of claims currently under examination. Without a showing of serious burden, maintaining a restriction requirement between the claims currently under examination and withdrawn claims 30 and 58would not be proper.

DECISION

The petition filed under 37 CFR 1.144 is **GRANTED-IN-PART** to the extent that currently pending claims 30 and 58 will be rejoined for examination with claims 1-4, 16, 19-25, 28-29, 31-37, 39-42, 44, 48-52, 55-61, 76 and 78 pending.

The petition is **dismissed** with regard to the request to rejoin Groups 1-43, because no claims currently pending correspond with those original groups.

Should the claims directed to the elected pairs of primers of SEQ ID Nos 3 and 4 and SEQ ID Nos 19 and 20 become allowable, and should those claims recite in the alternative the non-elected primer pairs of SEQ ID Nos 5 and 6 and SEQ ID Nos 21 and 22, examination may be extended to the non-elected primer pairs of SEQ ID Nos 5 and 6 and SEQ ID Nos 21 and 22, per MPEP 803.02.

The application will be forwarded to the Examiner to consider the papers filed on 10 October 2006 and to prepare an action consistent with this decision.

Should there be any questions regarding this decision, please Quality Assurance Specialist/Program Manager 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.

George Elliott
Director, Technology Center 1600

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#17

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FROM DIRECTORS OFFICE

SEP 01 2004

TECHNOLOGY CENTER 3600

J Mark Holland & Associates
3 civic Plaza Suite 210
Newport Beach, CA 92660

In re Application of :
Dan W.C. Delmer :
Application No. 09/904,975 :
Filed: July 12, 2001 :
For: COUPLING FOR PIPE, AND RELATED METHODS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicants' response, taken as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on June 14, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated November 19, 2003 and a Notice to that effect was mailed on June 18, 2004.

Applicant includes a response filed by facsimile transmission. The copy of the response includes a Certificate of Transmission dated January 20, 2004.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/vdb: 8/18/04

UNITED STATES PATENT AND TRADEMARK OFFICE

#21

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J. Mark Holland & Associates
3 Civic Plaza Suite 210
Newport Beach, CA 92660

MAILED
FROM DIRECTORS OFFICE

APR 20 2005

TECHNOLOGY CENTER 3600

In re Application of
Dan W.C. Delmer
Application No. 09/904,975
Filed: July 12, 2001
For: COUPLING FOR PIPE, AND RELATED METHODS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on October 29, 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 Transmission signed on January 20, 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.

RAR/rwg: 12/01/04

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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J MARK HOLLAND & ASSOCIATES
3 CIVIC PLAZA SUITE 210
NEWPORT BEACH CA 92660

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of :
Dan W.C. Delmer :
Application No. 09/904,975 :
Filed: July 12, 2001 :
Attorney Docket No. DELME-P2739 :

ON PETITION

This is a decision on the petition, filed January 20, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(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.

This application became abandoned for failure to timely reply to the final Office Action mailed November 14, 2003. An amendment, filed January 21, 2004 and re-submitted June 14, 2004 was considered and the applicant was advised in an advisory action mailed October 18, 2005 that the amendment did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned. Accordingly, a Notice of Abandonment was mailed December 6, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed

before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of November 14, 2003, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.[1]

Petitioners are correct in their assertion that since the proper fees were not submitted with the petition filed January 21, 2004 (re-submitted June 14, 2004), the petition could not be treated under 37 CFR 1.137(b) and thus, the fees submitted at that time, $55, have been applied with the fees submitted with the instant petition, $695 to make up the appropriate petition fees due pursuant to 37 CFR 1.17m, $750.

Petitioner must submit a proper reply to the final Office action mailed on November 14, 2003, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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

---

[1]Per the Examiner, amended claims 8 and 10 have included an extended preamble drawn to an apparatus, but the apparatus is not part of the claimed invention of a stretching tool (claim 8) or a temporary stretch-holding device (claim 10), which are claimed in the body of their respective claims

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OFFICE OF PETITIONS

In re Application of :
Dan W.C. Delmer :
Application No. 09/904,975 :
Filed: July 12, 2001 :
Attorney Docket No. DELME-P2739 :

ON PETITION

This is a decision on the renewed petition, filed April 26, 2006 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed November 14, 2003. An amendment, filed January 21, 2004 and re-submitted June 14, 2004 was considered and the applicant was advised in an advisory action mailed October 18, 2005 that the amendment did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned. Accordingly, a Notice of Abandonment was mailed December 6, 2005.

A petition filed January 20, 2006 was dismissed in a decision mailed March 14, 2006, because a proper response to the final rejection was not filed with the petition to revive.

Comes now petitioner with a renewed petition and an amendment after final.

The Examiner has determined that the amendment filed with the present petition is

---

[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

acceptable and since all other requirements have been met, the matter therefore is being referred to Technology Center 3679 for further examination.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

Dan W. C. Delmer
Application No. 09/904,975
Filed: July 12, 2001
Attorney Docket No. DELME-P2739

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 11, 2009, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition does not include the evidence, as indicated in MPEP § 708.02, Section III above, was provided to support the petition.

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).

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3679 for action in its regular turn.

Irvin Dingle
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

J. MARK HOLLAND AND ASSOCIATES
3 SAN JOAQUIN PLAZA
SUITE 210
NEWPORT BEACH, CA 92660

MAILED

OCT 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Dan W.C. Delmer	:	
Application No. 09/904,975	:	DECISION ON PETITION
Filed: July 12, 2001	:	TO MAKE SPECIAL UNDER
Attorney Docket No. DELME-P2739	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed September 30, 2009, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a doctor's certificate from David Burtzo, M.D. which state Mr. Delmar might not be available to assist in the prosecution of the patent application if it were to run its normal course. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3679 for action on the merits commensurate with this decision.

Irvin Dingle
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

WAGNER, MURABITO & HAO LLP
Two North Market Street, Third Floor
San Jose CA 95113

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Richey et al.	:	
Application No. 09/904,982	:	DECISION ON PETITION
Filed: July 12, 2001	:	
Attorney Docket No. CSCO-108434	:	

This is a decision on the petition under 37 CFR §1.137(b), filed August 22, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on August 2, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An untimely Request for Continued Examination (RCE) and amendment were filed on February 2, 2006. The RCE was treated as an improper because it was not accompanied by the fee as required pursuant to 37 CFR 1.114. Accordingly, this application became abandoned on November 3, 2005. A Notice of Abandonment was mailed on July 13, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

Pursuant to petitioner's request deposit account 23-0085 will be charged the $790 RCE fee.

The Request for Continued Examination (RCE), and amendment will be forwarded to Technology Center 2100 for further processing.

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

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: OCT 31 2002

UR

Paper No. 11

In re application of Patricia Preikschat et al. Serial No. 09/904,993 Filed: July 13, 2001 For: CHROMIUM (VI)-FREE CONVERSION LAYER AND METHOD FOR PRODUCING IT	:	DECISION ON PETITION

This is a decision on the SUBMISSION OF FORMAL DRAWINGS AND PETITION TO ACCEPT COLOR PHOTOGRAPHS UNDER 37 C.F.R. § 1.84(b)(2), filed October 17, 2002 to permit color photographs since (1) the fee as required by 37 CFR 1.17(h) has been paid, (2) three sets of the color photographs have been filed, (3) the specification includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation is provided stating why color photographs are necessary. The color photographs are for Figures 1, 2, 3, and 4.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The petition is **GRANTED**.

Upendra Roy
Special Program Examiner
Technology Center 1700

Pearne & Gordon LLP
526 Superior Avenue East, Suite 1200
Cleveland, OH 44114-1484

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 23, 2006

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/904993 Patent No.: 6,946,201 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Change to column 9, line 5 reads as it is written in the specification (O_2Zn^{2+}). The change requested is not consistent with the specification.

JENNIFER MCNEIL 1775

SUPERVISORY PATENT EXAMINER

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 15

ROSS PRODUCTS DIVISION OF ABBOTT LABORATORIES
DEPARTMENT 108140-DS/1
625 CLEVELAND AVENUE
COLUMBUS, OH 43215-1724

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APR 0 7 2004

OFFICE OF PETITIONS

In re Application of
Lai et al.
Application No. 09/905,022
Filed: July 13, 2001
Attorney Docket No. 6816.US.01

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 30, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed June 18, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 19, 2003. A Notice of Abandonment was mailed on January 22, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT S LIPTON ESQUIRE
LIPTON WEINBERGER & HUSICK
201 N JACKSON ST
PO BOX 934
MEDIA PA 19063

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JUN 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Gerald D. Thompson	:	
Application No. 09/905,029	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. 5424-2	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 3, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed July 11, 2002. This Office action set a shortened statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available. Applicant filed a reply on November 12, 2002[1], together with a credit card transmittal to charge the fee for a one month extension of time. However, the credit card was declined. Applicant supplied a new

[1] November 11, 2002 fell on a federal holiday.

credit card form for a one month extension of time on December 31, 2002. However, on December 31, 2002, a three month extension of time would have been necessary. Applicant filed a petition to withdraw the holding of abandonment on January 15, 2003 and February 25, 2003, which was erroneously granted in a decision mailed on February 26, 2003. A Notice of Abandonment was properly mailed on May 11, 2004.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, applicant is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of **unintentional delay**. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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 related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUN 2 6 2002

OFFICE OF PETITIONS

In re Application of :
Jonathan J. Hull, et al. :
Application No. 09/905,036 : ON PETITION
Filed: July 12, 2001 :
Attorney Docket No. 015358-006000US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 20, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Non-Provisional Application mailed August 9, 2001. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

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MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of	:
Gary A. Demos	:
Application No. 09/905,039	: DECISION GRANTING PETITION
Filed: July 12, 2001	: UNDER 37 CFR 1.137(f)
Attorney Docket No. 07314-013001	:

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 July 12, 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 2613 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

Fish and Richardson, P.C.
4350 La Jolla Village Drive
Suite 500
San Diego, CA 92122

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MAR 0 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Gary Demos	:	
Application No. 09/905,040	:	DECISION GRANTING PETITION
Filed: July 12, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 07314-011001	:	

This is a decision on the petition filed February 25, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on July 12, 2002. However, the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with the 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of June 12, 2003 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Marianne Morgan at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 2613 for examination in due course.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/23/2010

Applicant	: Jun Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7623757	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/905,063	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1930** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Alexander Channing Ho	: DECISION ON REQUEST FOR
Patent Number	: 7636792	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/905,117	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **956** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 3 1 2004

Technology Center 2100

Paper No. 5

Sawyer Law Group
P.O. Box 51418
Palo Alto, California 94303

In re Application of: Emer Natalio	)	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 AND M.P.E.P. §708.02(XI)**
Application No. 09/905,118	)	
Filed: July 13, 2001	)	
For: METHOD TO DISTRIBUTE INFORMATION IN AN AIRPORT	)	

This is a decision on the petition to make special filed June 12, 2003 under 37 C.F.R. §102(d) and of 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 of distribution information in an airport. The specification is directed to flight information and advertising for merchants.

Petitioner does not establish a sufficient nexus between the disclosed and claimed invention and preventing "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", or preventing 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.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www. uspto. gov

LUKE A. KILYK
KILYK & BOWERSOX, P.L.L.C.
53 A EAST LEE STREET
WARRENTON, VA 20186

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OFFICE OF PETITIONS

In re Patent No. 6,753,384 :
Issue Date: June 22, 2004 :
Application No. 09/905,156 :
Filed: July 13, 2001 :
Attorney Docket No. 3130-002-02

LETTER

This is in response to the paper filed March 4, 2005 which is being treated as a petition under 37 CFR 1.28(b) requesting that status as a Small Entity be removed.

In accordance with the March 4, 2005 request, status as a Small Entity has been removed.

Inquiries related to this communication 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Joseph R. Baker, APC
Gavrilovich, Dodd & Lindsey LLP
4660 La Jolla Village Drive
Suite 750
San Diego CA 92122

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JAN 06 2009

OFFICE OF PETITIONS

In re Application of :
Lewis et al. : DECISION ON PETITION
Application No. 09/905,157 :
Filed: July 12, 2001 :
Atty Docket No. 00016-020001/ :
CIT3240 :

This is in response to the REPLY AND PETITION FOR WITHDRAWAL OF ABANDONMENT OR REVIVAL FOR UNINTENTIONAL ABANDONMENT filed August 25, 2008. This also responds to the alternative PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed August 25, 2008.

The petition under 37 CFR § 1.181 is **DISMISSED**.

The petition under 37 CFR § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Office letter mailed March 27, 2008. The Notice Regarding Drawings set a two-month time period from the mailing date of the Notice for applicant to correct drawing informalities. This two-month period was non-extendable. No reply received, the above-identified application became abandoned on May 28, 2008. A courtesy Notice of Abandonment was mailed on August 21, 2008.

In response, applicants filed the instant petition. Applicants respectfully submit that they relied upon the indications of the Office (on at least six (6) occasions) that the drawings pending in the application were acceptable or providing no indication at all and accordingly request withdrawal of the Notice of

Abandonment or in the alternative Revival for Unintentional Abandonment.

ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Applicants' arguments have been considered and it is concluded that withdrawal of the holding of abandonment is not warranted. Applicants do not dispute that they did not respond to the Notice Regarding Drawings. In this instance, there is actually no dispute as to whether the application is abandoned. The application became abandoned for failure to timely file corrected drawings as required by the Notice Regarding Drawings mailed March 27, 2008. Applicant received the Notice. There is no question that they did not respond to the requirement set forth in the Notice. Regardless of the correction of a requirement, to avoid abandonment applicant must take action within the set period. Applicant cannot merely allow the period to expire without taking any action and thereafter, question the correction of the Notice.

Moreover, the fact that the Notice of Allowability did not require drawings is not dispositive. Nor is the fact that other Office actions may have indicated that the drawings were acceptable. Just because the examiner does not object to the drawings in any particular paper does not mean that he/she cannot later set forth an objection or that another component of the Office cannot set forth a requirement with respect to the drawings. The record is clear that, in this instance, the Office sent applicants a Notice which specified corrections to the drawings and which clearly stated that "Failure to take corrective action within the set period will result in abandonment of the application." Applicants did not take action within the set period. Under the circumstances, it is concluded that this application is properly regarded as abandoned. Withdrawal of the holding of abandonment is not warranted.

Consideration now turns to the alternative petition to revive under 37 CFR 1.137(b).

ON PETITION TO REVIVE

The requirements of 37 CFR 1.137(b) have been satisfied. The petition includes the required reply in the form of submission of drawings; payment of the petition fee set forth in 37 CFR

§ 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for consideration of response to the Notice Regarding Drawings, the drawings submitted on petition filed August 25, 2008.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APPLIED MATERIALS, INC.
P. O. BOX 450A
SANTA CLARA CA 95052

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MAR 3 1 2008
OFFICE OF PETITIONS

In re Application of :
David S. MUI et al. :
Application No. 09/905,172 :
Filed: July 13, 2001 :
Attorney Docket No. 004227 USA 02/ETCH/SILICO :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of July 25, 2007 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 26, 2007. See MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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. 11/981,930.

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.

David Bucci
Petitions Examiner
Office of Petitions

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FROM DIRECTORS OFFICE
JAN 24 2005
TECHNOLOGY CENTER 3600

ADE & Company
1700-360 Main Street
Winnipeg, MB R3C3Z3
Canada

In re Application of :
Douglas A. Staley et al :
Application No. 09/905,179 :
Filed: January 23 2001 :
For: SYSTEM AND METHOD FOR SPACECRAFT ATTITUDE CONTROL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicants' response, taken as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on December 8, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated January 16, 2003 and a Notice to that effect was mailed on October 16, 2003.

Applicant includes a response filed by facsimile transmission. The copy of the response includes a Certificate of Transmission dated March 24, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and .

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate. In the instant case, a personal statement by Linda R. Hickling the certifying official of the facsimile is required.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/jwk: 1/12/05

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Commissioner for Patents
United States Patent and Trademark Office
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WINNIPEG MB R3C 3Z3
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Staley et al.	:	DECISION ON PETITION TO
Application No. 09/905,179	:	WITHDRAW HOLDING OF
Filed: 23 January, 2001	:	ABANDONMENT
Attorney Docket No. 84380-902	:	

This is a decision on the renewed petition filed on 7 March, 2005, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 16 January, 2003. Notice of Abandonment was mailed on 16 October, 2003.

Petitioners again assert that an amendment was timely filed. In support, petitioner has supplied a copy of an amendment to the specification, the last page of which contains a Certificate of Facsimile Transmission dated 24 March, 2003

Any petition to withdraw the holding of abandonment based on 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).

Petitioners have now supplied the statement required by item (2) above.

As petitioners have provided convincing evidence that an amendment was transmitted to the USPTO on 24 March, 2003, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The application is being referred to Technology Center Art Unit 3644 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

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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of:	:	
Kevin D. Kissell	:	
Application No. 09/905,185	:	DECISION ON
Filed: July 13, 2001	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.137(b)
PROGRAMMABLE PAGE TABLE ACCESS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 2004, to revive the above-identified application. The petition is being treated under the unintentional provisions of 37 CFR 1.137(f).

This Petition is hereby **granted**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 8, 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(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[1]; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

The instant petition has been found 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 as provided by 35 USC 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 Communication Regarding Rescission of Nonpublication Request, indicating a projected publication date of May 26, 2005, accompanies the present petition.

This application matured into Patent No. 6,728,859 on April 27, 2004. Therefore, no further action being required, this patented file is being referred to Files Repository.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request

Sector B

OIPE JC10 OCT 1 2 2001 PATENT & TRADEMARK OFFICE

Please type a plus sign (+) inside this box → [+]

PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/905,186
Filing Date	July 13, 2001
First Named Inventor	Mary Jeanne Kreek et al.
Group Art Unit	Unknown
Examiner Name	Unknown
Attorney Docket Number	600-1-284N

ENCLOSURES *(check all that apply)*

- [X] Fee Transmittal Form
  - [X] Fee Attached
- [X] Amendment / Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [X] Response to Missing Parts/ Incomplete Application
  - [X] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [X] Other Enclosure(s) *(please identify below)*: Declaration, Postcard and Check

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	David A. Jackson, Reg. No. 26,742
Signature	
Date	October 9, 2001

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: October 9, 2001

Typed or printed name	Anne M. Jones		
Signature		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 sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

OIPE JC10
OCT 1 2 2001
PATENT & TRADEMARK OFFICE

PTO/SB/17 (11-00)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($)803.00

Complete if Known	
Application Number	09/905,186
Filing Date	July 13, 2001
First Named Inventor	Mary Jeanne Kreek et al.
Examiner Name	Unknown
Group Art Unit	Unknown
Attorney Docket No.	600-1-284N

METHOD OF PAYMENT

1. [X] The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 11-1153

Deposit Account Name:

[X] Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

[X] Applicant claims small entity status. See 37 CFR 1.27

2. [X] **Payment Enclosed:**

[X] Check [ ] Credit card [ ] Money Order [ ] Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	370.00
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) ($) 370.00

2. EXTRA CLAIM FEES

		Extra Claims		Fee from below		Fee Paid
Total Claims	36	-20** =	16	x 9.00	=	144.00
Independent Claims	5	- 3** =	02	x 42.00	=	84.00
Multiple Dependent				140.	=	140.00

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	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) ($) 368.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	65.00
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 *ex parte* 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	Processing fee under 37 CFR 1.17(q)	
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) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 65.00

SUBMITTED BY			Complete (if applicable)	
Name (Print/Type)	David A. Jackson	Registration No. (Attorney/Agent) 26,742	Telephone	201-487-5800
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, 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.

#4

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OCT 1 2 2001
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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/905,186	07/13/2001	Mary Jeanne Kreek	600-1-284 N

CONFIRMATION NO. 3062

FORMALITIES LETTER

OC000000006387624

23565
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

Date Mailed: 08/06/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **355** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $710.
  - **$135** for **15** total claims over 20.
  - **$440** for **11** independent claims over 3 .
  - **$135** for multiple dependent claim surcharge.
- 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 $ 1130.**

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

10/16/2001 NBELETE1 00000042 09905186
01 FC:201 370.00 OP
02 FC:205 65.00 OP
03 FC:202 84.00 OP
04 FC:203 144.00 OP
05 FC:204 140.00 OP

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

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Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/905,186
Filing Date	July 13, 2001
First Named Inventor	Mary Jeanne Kreek et al.
Group Art Unit	1645
Examiner Name	Unknown
Attorney Docket Number	600-1-284N

ENCLOSURES *(check all that apply)*

- [X] Fee Transmittal Form
  - [X] Fee Attached
- [ ] Amendment / Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [X] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [X] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [X] Other Enclosure(s) *(please identify below)*: Sequence Listing and Diskette, Amendment, Postcard and Check

Remarks

Applicant claims Small Entity Status

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	David A. Jackson, Reg. No. 26,742
Signature	
Date	January 3, 2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: January 3, 2002

Typed or printed name	Anne M. Jones		
Signature		Date	January 3, 2002

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($)

Complete if Known	
Application Number	09/905,186
Filing Date	July 13, 2001
First Named Inventor	Mary Jeanne Kreek et al.
Examiner Name	Unknown
Group Art Unit	1645
Attorney Docket No.	600-1-284N

METHOD OF PAYMENT

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 11-1153

Deposit Account Name:

☒ 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 Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES

		Extra Claims		Fee from below		Fee Paid
Total Claims		-20** =		X		=
Independent Claims		- 3** =		X		=
Multiple Dependent						=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)

***or number previously paid, if greater; For Reissues, see above*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
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 *ex parte* 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	400	216	200	Extension for reply within second month	460.00
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	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	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)** ($) 460.00

SUBMITTED BY				Complete (if applicable)	
Name (Print/Type)	David A. Jackson, Esq.	Registration No. (Attorney/Agent)	26,742	Telephone	(201) 487-5800
Signature				Date	January 3, 2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

OIPE JC141
JAN 2 5 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS ORIGINALLY FILED

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
09/905,186	07/13/2001	Mary Jeanne Kreek	600-1-284N

CONFIRMATION NO. 3062

FORMALITIES LETTER

OC000000007081999

23565
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

Date Mailed: 11/16/2001

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 10/09/2001 to the Notice to File Missing Parts (Notice) mailed 08/06/2001 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

03 CO
#8

OIPE JC54
MAY 2 8 2002
PATENT & TRADEMARK OFFICE

KLAUBER & JACKSON
ATTORNEYS AT LAW
CONTINENTAL PLAZA
411 HACKENSACK AVENUE
HACKENSACK, NEW JERSEY 07601

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DAVID A. JACKSON
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VALETA A. GREGG, Ph.D.*
STEPHEN GIGANTE
LAWRENCE D. MANDEL+
CATHERINE ROSEMAN SMITH*

*BAR OTHER THAN N.J.
+ COUNSEL

PATENT AGENTS

CHRISTINE E. DIETZEL, PH.D.
MICHAEL A. YAMIN, PH.D.

SCIENTIFIC ADVISOR

VERONICA M. MALLON, PH.D.

PATENT, TRADEMARK AND COPYRIGHT CAUSES
(201) 487-5800
FACSIMILE: (201) 343-1684
WWW.KJIPLAW.COM
email: info@kjiplaw.com

May 22, 2002

U.S. Patent and Trademark Office
Box Sequence, P.O. Box 2327
Arlington, VA 22202

Re: U.S. Patent Application
Inventors: Mary Jeanne Kreek and Karl Steven La Forge
Title: ALLELES OF THE HUMAN ORPHANIN FQ/NOCICEPTIN RECEPTOR GENE, DIAGNOSTIC METHODS USING SAID ALLELES, AND METHODS OF TREATMENT BASED THEREON
Serial No.: 09/905,186
Filed: July 13, 2001
Our Ref.: 600-1-284 N

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the U.S. Patent and Trademark Office, Box Sequence, PO Box 2327, Arlington, VA 22202 on May 22, 2002.

David A. Jackson, Reg. No. 26,742
(Name of Registered Representative)

(Signature and Date) 5/22/02

RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Sir:

Responsive to the Notice dated April 15, 2002, with a due date of June 15, 2002, indicating that the previously forwarded Sequence Listing Disk was damaged, and in accordance with 37 CFR 1.821 - 1.825, Applicants submit herewith the following:

1. A paper copy of a Sequence Listing for insertion into the Application as filed at the end of the Specification and prior to the Claims.

2. A copy of the Sequence Listing in computer readable form.

3. A statement in support of the filing and submission of a Sequence Listing in accordance with 37 CFR 1.821 - 1.825.

Applicants request favorable consideration and entry of the Sequence Listing submitted herewith and further and favorable processing of the present Application.

Applicants hereby authorize that any charges in addition to the above authorized that relate to the filing and processing of the present Application in accordance with 37 CFR 1.16 and 1.17 may be charged to Deposit Account No. 11-1153. A duplicate copy of this letter is provided for this purpose.

Respectfully submitted,

DAVID A. JACKSON
Attorney for Applicant(s)
Registration No. 26,742

DAJ:aj
Enclosures

OIPE 0320

BIOTECHNOLOGY SYSTEMS BRANCH

CRF Problem Report

The Scientific and Technical Information Center (STIC) experienced a problem when processing the following computer readable form (CRF):

Application Serial Number: 09/905,186
Filing Date: 7/13/2001
Date Processed by STIC: 2/7/2002

STIC Contact: **Mark Spencer, 703-308-4212**

Nature of Problem:

The CRF (was):

✓ (circle one) Damaged or Unreadable (for Unreadable, see attached)
____ Blank (no files on CRF) (see attached)
____ Empty file (filename present, but no bytes in file) (see attached)
____ Virus-infected. Virus name: _____ The STIC will not process the CRF.
____ Not saved in ASCII text
____ Sequence Listing was embedded in the file. According to Sequence Rules, submitted file should **only** be the Sequence Listing.
____ Did not contain a Sequence Listing. (see attached sample)
____ Other:

PLEASE USE THE CHECKER VERSION 3.1 PROGRAM TO REDUCE ERRORS. SEE BELOW FOR ADDRESS:
http:/www.uspto.gov/web/offices/pac/checker

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail.
Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom.
Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (<**http://www.uspto.gov/ebc/efs/downloads/documents.htm**>, **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service:** U.S. Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA 22202
3. **Hand Carry directly to:**
   U.S. Patent and Trademark Office, Technology Center 1600, Reception Area, 7th Floor, Examiner Name, Sequence Information, Crystal Mall One, 1911 South Clark Street, Arlington, VA 22202
   Or
   U.S. Patent and Trademark Office, Box Sequence, Customer Window, Lobby, Room 1B03, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202
4. **Federal Express, United Parcel Service , or other delivery service to:** U.S. Patent and Trademark Office, Box Sequence, Room 1B03-Mailroom, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202

Revised 01/29/2002

OIPE JC54
MAY 2 8 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/905,186	10/09/2001	Mary Jeanne Kreek	600-1-284N

CONFIRMATION NO. 3062

FORMALITIES LETTER

OC000000007863653

23565
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

Date Mailed: 04/15/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUGHES ELECTRONICS CORPORATION
PATENT DOCKET ADMINISTRATION
P.O. BOX 956
BLDG. 1, MAIL STOP A109
EL SEGUNDO, CA 90245-0956

MAILED

AUG 21 2009

OFFICE OF PETITIONS

In re Application of	:	
John Border, et al.	:	
Application No. 09/905,215	:	DECISION ON PETITION
Filed: June 13, 2001	:	
Attorney Docket No. PD-201021	:	

This is a decision on the petition, filed November 9, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. The delay in responding is regretted; however, the petition was recently referred to the Office of Petition for consideration.

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 Jeffrey J. Howell appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before August 13, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed May 11, 2007. A Notice of Abandonment was mailed on September 6, 2007.

Petitioner asserts that the Notice dated May 11, 2007 was not received.

A review of the application file reveals no irregularities in the mailing of the Notice mailed May 11, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

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. 12

Darby & Darby
805 Third Avenue, 27th. Fl.
New York, NY 10022

COPY MAILED
FEB 05 2004
OFFICE OF PETITIONS

In re Application of	:	
Yi-Boa Ke	:	
Application No. 09/905,247	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. 04399/000J615-US0	:	

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 to the Notice to File Missing Parts of Application mailed August 9, 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 10, 2001.

The application file is being forwarded to the Office of Initial Patent Examination Division for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/905,252	07/13/2001	Herbert Stanley Summers III	DP-305345	4879

7590 03/20/2008

SCOTT A. MCBAIN
DELPHI TECHNOLOGIES, INC.
Legal Staff, P.O. Box 5052
Mail Code: 480-414-420
Troy, MI 48007-5052

EXAMINER
PATEL, VINOD D

ART UNIT	PAPER NUMBER
3742	

MAIL DATE	DELIVERY MODE
03/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No. SUMMERS ET AL. Issue Date: July 8, 2003 Appl No.: 09/905,252 Filed: July 13, 2001 For: Pump and Pump Piston Assembly	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed Sep 15, 2003 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Tu B. Hoang
SPE, Art Unit 3742
Technology Center 3700

SCOTT A. MCBAIN
DELPHI TECHNOLOGIES, INC.
Legal Staff, P.O. Box 5052
Mail Code: 480-414-420
Troy, MI 48007-5052

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAYNES BEFFEL & WOLFEID LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

COPY MAILED

JAN 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Robert E. Dvorak et al :
Application No. 09/905,255 :
Filed: July 13, 2001 :
Attorney Docket No. BLFR 1007-1 :

ON PETITION

This is a decision on the petition, filed April 28, 2004, under 37 CFR 1.137(b) 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.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 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 January 7, 2005.

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).

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, the amendment received April 5, 2005 did not place the application in condition for allowance. 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 received. Office records show an Advisory Action was

previously mailed April 13, 2005. Accordingly, the petition to revive cannot be granted until such time as the outstanding response requirement is received.

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) 272-3210.

Irvin Dingle
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

HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

COPY MAILED

JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert E. Dvorak et al	:	
Application No. 09/905,255	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. BLFR 1007-1	:	

This is a decision on the renewed petition filed, January 17, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 17, 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 2129 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. 6

GRAYBEAL JACKSON HALEY
SUITE 350
155 - 108TH AVENUE NE
BELLEVUE, WA 98004-5901

COPY MAILED

FEB 27 2002

OFFICE OF PETITIONS

NOTICE

In re Application of :
John MacAlister et al :
Application No. 09/905,261 :
Filed: July 13, 2001 :
Attorney Docket No. 1965-1-3 :

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 3632.

Wan Layman
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

January 2, 2002

Peter D. Meyer
The Procter & Gamble Company
Patent Division
Ivorydale Technical Center – Box 474
5299 spring Grove AVE
Cincinnati, OH 45217

In re application of:
Russell N. Cifford T. Papsdorf DECISION ON PETITION
Serial No.: 09/950,274
Filed: July 13, 2001
For: A COUNTINUOUS IN-LINE PLEATING
APPARATUS AND PROCESS

This is a decision on the petition received by fax on September 17,2002, 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 28, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 30, 2001.

On September 17, 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 September 17, 200l.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on September 17, 2001.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 3721.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 5

Greg T. Sueoka
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

MAIL

AUG 26 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/905,318

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
KENNETH WIEDER
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 2600

Paul Hickman
OPPENHEIMER WOLFF & DONNELLY, L.L.P.
1400 Page Mill Road
Palo Alto, CA 94304

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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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

COPY MAILED
JUL 14 2004
OFFICE OF PETITIONS

In re Application of :
Cem Basceri, et al. :
Application No. 09/905,320 :
Filed: July 13, 2001 :
Attorney Docket No. MI22-1657 :

ON PETITION

This is a decision on the petition, filed June 28, 2004, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **GRANTED**.

Petitioner requests that the application be withdrawn from issue to permit abandonment for consideration of an Information Disclosure Statement in 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 regarding this decision may be directed to the undersigned at (703) 305-9220.

The application is being referred to the Office of Publications to be processed as an abandoned file.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 05/06/2010

Applicant	: Anjali Chandnani	: DECISION ON REQUEST FOR
Patent Number	: 7636945	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/905,343	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1535** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DORSEY & WHITNEY LLP
SUITE 3400, FOUR EMBARCADERO CENTER
SAN FRANCISO, CA 94111-4187

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APR 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Jay Brian Dedontney et al	:	
Application No. 09/905,349	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. A-67178-1/MSS	:	

This is a decision on the petition filed, December 8, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 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 1, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on December 8, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matters is being referred to Technology Center AU 1763 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

IFW

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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PATENT & TRADEMARK OFFICE

DORSEY & WHITNEY LLP
SUITE 3400, FOUR EMBARCADERO CENTER
SAN FRANCISO, CA 94111-4187

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APR 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Jay Brian Dedontney et al	:	
Application No. 09/905,349	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. A-67178-1/MSS	:	

This is a decision on the petition filed, December 8, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 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 1, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on December 8, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matters is being referred to Technology Center AU 1763 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

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JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of	:
Chen et al.	: DECISION GRANTING PETITION
Application No. 09/905,408	: UNDER 37 CFR 1.137(f)
Filed: July 16, 2001	:
Attorney Docket No. TS01-133	:

This is a decision on the "Petition for Revival of an Application for Patent Abandoned For Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))," filed May 11, 2004.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a corresponding application filed April 10, 2002, in another country, or under a multinational international treaty requiring 18 month publication. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application[1].

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(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

[1] A Rescission of Nonpublication Request was filed on December 17, 2002. However, it was not accompanied by a Notice of Foreign Filing.

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.
Pursuant to the request to rescind filed December 17, 2002, 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 to show the projected publication date of October 7, 2004 accompanies this decision on petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JJGJR.: 07-06

Paper No: __

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PROPERTY & STANDARDS
595 MINER ROAD
CLEVELAND OH 44143

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Kulkarni, et al.	:	
Application No. 09/905,418	:	DECISION
Filing Date: 13 July, 2001	:	
Attorney Docket No.: US 019011	:	

This is a decision on the petition filed on 13 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 20 May, 2004, with reply due absent extension of time on or before 20 August, 2004;
- the application went abandoned after midnight 20 August, 2004;
- the Office mailed the Notice of Abandonment on 29 November, 2004;
- on 29 November, 2004, Petitioner filed *via* FAX a Notice of Change of Address–a

document which Petitioner appears to have resubmitted on 13 May, 2005, and on 23 January, 2006;

- on 13 June, 2006, Petitioner filed the instant petition with fee, a reply in the form of a request for continued examination (RCE), with fee and submission in the form of an amendment, in conformance with 37 C.F.R. §1.114, and made the statement of unintentional delay.

Notably, it does not appear that Petitioner filed of record any Status Inquiry with regard to the instant matter between abandonment 20 August, 2004, and the filing of the instant petition.

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]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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(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]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The record (including the petition filed on 13 June, 2006) does not necessitate a finding that the delay between midnight 20 August, 2004 (date of abandonment), and 13 June, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioners Kulkarni, et al., and Counsel Douglas B. McKnight (Reg. No. 50,447) when accepting Petitioners' representation that the delay in filing the response was unintentional.[9]

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to the Examiner in 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

---

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/905,418	07/13/2001	Sunil Kulkarni	US 019011	4726

38107 7590 03/02/2009
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
595 MINER ROAD
CLEVELAND, OH 44143

EXAMINER
MALEVIC, DJURA

ART UNIT	PAPER NUMBER
2884	

MAIL DATE	DELIVERY MODE
03/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Thomas E. Kocovsky, Jr.
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2579

In re Application of:	:	
Kulkarni, et al..	:	DECISION ON PETITION
Serial No.: 09/905,418	:	FOR ENTRY OF THE AMENDMENT OF
Filed: July 13,2001	:	JANUARY 18, 2007
Attorney Docket No.:	:	
PHUS019011US?PKRZ200876		

This is a decision in response to the communication filed April 30, 2007. The communication has been treated as a petition under 37 C.F.R. § 1.181, to enter the amendment filed with the Appeal Brief of January 18, 2007. No petition fee is required.

The petition is **DENIED**.

37 C.F.R. 41.33 (b) and (c). state clearly that "Amendments filed **on or after the date of filing a brief** pursuant to 41.37 may be admitted : (1) To cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, or (2) To rewrite dependent claims into independent form. (c) All other amendments filed after the date of filing an appeal pursuant to 41.31 (a)(1) through (a)(3) will not be entered except as permitted by 43.39 (b)(1), 41.50 (a)(2)(i), 41.50 (b)(1) and 41.50(c)" (emphasis added).

Appellant's amendment does not fall under any of these sections of the Rules and is therefore properly denied entry. Appellant's arguments regarding 37 C.F.R. 41.33(a) are not persuasive as 41.33(a) deals with amendments "filed after the date of filing an appeal pursuant to 41.31(a)(1) through (a)(3) and **prior to the date a brief is filed** pursuant to 41.37" (emphasis added).

Any inquiry regarding this decision should be directed to David P. Porta, Supervisory Patent Examiner, at (571) 272-2444.
The application file will continue to be processed for appeal.

Cassandra Spyrou, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

PAPER NO. 21

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AUG 2 9 2003

OFFICE OF PETITIONS

WILLIAM A. WEBB
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of
Peter Ackeret
Application No. 09/905,429
Filed: July 13, 2001
Attorney Docket No. 8338/18

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 25, 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 July 14, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 3723 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

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[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

Lawrence J. Merkel
Conley, Rose & Tayon
P.O. Box 398
Austin, Tx 78767

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MAY 12 2005

OFFICE OF PETITIONS

In re Application of
Hughes
Application No. 09/905,448
Patent No. 6,665,788
Filed: July 13, 2001
Attorney Docket No. 5500-6780

:LETTER REGARDING PATENT TERM
:ADJUSTMENT AND NOTICE OF
:INTENT Of ISSUE A CERTIFICATE OF
:CORRECTION

This decision is in response to applicant's "Letter Regarding Patent Term Adjustment" filed October 23, 2003 requesting that the Office review applicant's PTA determination to ascertain if the amount of patent term adjustment is longer than appropriate.

The applicant's letter requesting reconsideration of the Patent Term Adjustment is **GRANTED.** The proper amount of PTA for this application is twenty-three (23) days rather than the ninety-eight (98) printed on the front of the patent. The Office will *sua sponte* issue a certificate of correction adjusting the amount of patent term adjustment from 98 to 23 days.

The Office thanks applicant for his good faith and candor in bringing this discrepancy to the attention of the Office.

The applicant did not expressly state why he believed the amount of patent term adjustment to be more than appropriate. However, upon review the Office agrees with applicant that the amount of PTA is excessive. A review of the PTA history reveals that the one hundred and forty-three (143) days of Office delay is an error because the Office did in fact reply within four months of applicants response filed on June 20, 2003. In addition, the Office notes that the sixty-four days assessed against applicants is an error and was not considered a paper filed after the notice of allowance which the office considered a failure to engage in reasonable efforts to conclude prosecution of the application. Finally, the Office notes that the Office failed to assess the delay of responding to the December 19, 2003 paper within four months, a four day delay.[1] Accordingly, the correct determination at the time of the issuance of the patent is twenty-three (19+4 - 0= 19).

Applicants have thirty nonextendable (30) days to dispute this decision. The Office will forward this decision to the Office of Publications, certificate of correction branch for the publication of a certificate of corrections.

The office does not assess any fee for applicants good faith and candor in bringing this to the

[1]The Office reply occurred on April 23, 2004, four days over the four month deadline.

attention of the Office.

Any inquiries related to this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Karin Ferriter
Senior Legal Advisor
Office of Deputy Commissioner of
Patent Examination Policy

cc: certificate of correction

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Paper No. 19

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application	:	
James Chen	:	
Application No. 09/905,501	:	DECISION ON APPLICATION
Filed: July 13, 2001	:	FOR
Attorney Docket No. 25886-0055B	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(b)," filed March 10, 2004. Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from two hundred ninety-two (292) days to three hundred ninety-five (395) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred twenty-seven (327)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 18, 2003, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date is 292 days. Applicant timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 CFR 1.18(e)[1]. Applicant requests correction of the patent term adjustment to 395 days.

First, of all, applicant asserts that the application is entitled to a patent term adjustment of 461, rather than 411 days, for Office delay in mailing a first Office action pursuant to 37 CFR § 1.703(a)(1). Applicant contends that the period under § 1.703(a)(1) should be calculated using the date of mailing of a corrected notice of allowance.

Secondly, applicant requests that the reduction of 119 days for applicant delay in responding to the Notice to File Missing Parts

[1] PALM records indicate that the Issue Fee was received March 16, 2004.

of Application be decreased to 66 days. In part, applicant states that this reduction should be corrected to 84 days on the basis that their response was received in the Office on February 19, 2002, not March 26, 2002 (the date PAIR notes "Application is Now Complete"). In support thereof, applicant submits a copy of their itemized return postcard date-stamped February 19, 2002. Furthermore, applicant requests reinstatement of 18 days of this reduction on the basis that receipt of the response was delayed due to the USPS mail situation at that time.

Office records support a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

OPINION

The period of adjustment of 411 days pursuant to § 1.703(a)(1) has been reviewed and found to be correct. The Office mailed a notice of allowance under 35 U.S.C. 151 on October 29, 2003. A corrected notice of allowance was mailed on December 18, 2003. Applicant states that the corrected notice was mailed because, as a matter of record, the original notice was incomplete and never received by applicant. The application papers present in the application file are the Official record of the papers mailed and received in an application. A review of the copy of the notice mailed October 29, 2003, of record in the application indicates that a complete notice of allowance was mailed. However, due to non-receipt of the notice, it was re-mailed on December 18, 2003.

In this case, the subsequent mailing of another notice of allowance does not alter the date used in calculation of the period of adjustment. The record reveals both notices were mailed to the correspondence address of record. However, the notice was not received by applicant. Thus, the notice was re-mailed and the period for response restarted. It has not been shown that the re-mailing was due to any error on the part of the Office in mailing the first notice of allowance to applicant. Thus, the re-mailing of the notice of allowance did not constitute a delay by the Office in the issuance of the patent within the meaning of 35 U.S.C. 154(b).

However, the period of reduction of 119 days has been reviewed and found to be incorrect. A review of the application file reveals that applicant's complete response to the Notice to File Missing Parts of Application mailed August 27, 2001, is of record in the application with a date of receipt by the Office of February 19, 2002. This was outside of the three-month period under 37 CFR 1.704(b), but not by 119 days. Applicant should have been assessed a delay of 84 days, counting the number of days in the period beginning on the day after the date that is three months after the date of mailing of the notice, November 28, 2001, and ending on the date the reply was filed, February 19, 2002.

As to applicant's request to reinstate 18 days of delay, it is concluded that reinstatement is not appropriate. Applicant's response received February 19, 2002 bears a certificate of mailing dated January 28, 2002. The Office's policy with respect to reinstatement of patent term adjustment due to the mail delays of that period is set forth in an OG Notice dated January 15, 2002 (1254 OG 92). Such relief was expressly limited to replies

"mailed on or after October 13, 2001 and no later than December 1, 2001 (as shown on a certificate of mailing under 37 CFR 1.8)."

CONCLUSION

In view thereof, the petition is **GRANTED** to the extent indicated.

The patent term adjustment at the time of the mailing of the notice of allowance is **327** days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Patent Publication for issuance of the application.

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Nancy Johnson at (703) 305-0309.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of REVISED PAIR screen

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Paper No. None

QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of :
Dan Vassilovski et al. :
Application No. 09/905,510 :
Filed: July 13, 2001 :
Attorney Docket Number: 010275 :
Title: SYSTEM AND METHOD FOR :
EXTENDED SIP HEADERS FOR CDMA :
PARAMETERS :

DECISION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed May 5, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 27, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 28, 2005. A notice of abandonment was mailed on November 1, 2005.

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

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1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant 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 the instant petition.

The present petition was received on May 5, 2006, along with the petition fee, an amendment, and a statement which is being construed as the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the concurrently submitted amendment can be processed.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

FENWICK & WEST L.L.P.
Two Palo Alto Square
Pala Alto, CA 94306

MAIL

MAR 2 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of: :
Gyudong kim, et al. :
Application No.: 09/905,511 :
Filed: JULY 13, 2001 :
For: METHOD AND APPARATUS FOR ADAPTIVE CONTROL OF PLL LOOP BANDWIDTH

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw as Attorney or Agent of record filed on February 26, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

The following attorney(s) are withdrawn from the record: Greg T. Sueoka and Jeffrey S. Smith, the attorneys of record at Fenwick & West L.L.P. Two Palo Alto Square Palo Alto, CA 94306.

The correspondence address will be changed. All future communications from the United States Patent and Trademark Office (Office) will be directed to the address listed below 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Paul Hickman
Oppenheimer Wolff & Donnelly, L.L.P.
1400 Page Mill Road
Palo Alto, CA 94304

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TC 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Barry Boone et al.
Application No. 09/905,525 :
Filed: July 13, 2001 :
For: METHOD AND SYSTEM FOR LISTING ITEMS GLOBALLY AND REGIONALLY, AND CUSTOMIZED LISTING ACCORDING TO CURRENCY OR SHIPPING AREA :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 18, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

09/905,525

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/slb: 03/21/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/24/2010

Applicant	: Barry Boone	: DECISION ON REQUEST FOR
Patent Number	: 7660740	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/905,525	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1324** 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. 6

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FEB 05 2003

Technology Center 2600

Martin J. Jaquez, Esq.
JAQUEZ & ASSOCIATES
Suite 2640
750 B Street
San Diego CA 92101

In re Application of	:	
Feng Qian	:	
Application No. 09/905,529	:	DECISION ON REQUEST TO
Filed: July 13, 2001	:	WITHDRAW AS ATTORNEY
For: **FRAME MATCHING METHOD AND APPARATUS FOR USE IN A COMMUNICATION SYSTEM**	:	

This is a decision on the request to withdraw as attorney/agent of record filed on November 25, 2002.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents of record in this application are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: LSI Logic Corporation
1551 McCarthy Blvd.
Milpitas, CA 90535

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Alexandria, VA 22313-1450
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Paper No. 11

MICHELLE BOS
STRATTON BALLEW
213 SOUTH 12TH AVENUE
YAKIMA, WA 98902

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OFFICE OF PETITIONS

In re Application of	:	
Paul G. Glucina et al	:	
Application No. 09/905,574	:	ON PETITION
Filed: July 12, 2001	:	
Attorney Docket No. HR1.P03	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 24, 2003, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on May 25, 2003. See MPEP 1215.04.

The Office Finance records show that the Appeal Brief was inadvertently charged twice. Therefore, a refund of $165.00 is being credited to Deposited Account No. 50-0269.

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 1661.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DARYL C JOSEPHSON
54 CHILTON AVE
SAN CARLOS CA 94070

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OFFICE OF PETITIONS

In re Application of	:	
Daryl Craig Josephson	:	
Application No. 09/905,590	:	ON PETITION
Filed: February 3, 2006	:	
Attorney Docket No. 00001US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed November 21, 2003. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on February 22, 2004. A Notice of Abandonment was mailed on November 1, 2004..

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 2655 for consideration of the Amendment filed February 6, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM WA 98226

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OFFICE OF PETITIONS

In re Application of	:	
Moline, et al.	:	
Application No. 09/905,604	:	ON PETITION
Filed: July 13, 2001	:	
Attorney Docket No. 3123-363	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2004.

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 July 16, 2003. 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 October 17, 2003. A Notice of Abandonment was mailed on June 10, 2004.

Petitioner has paid the petition fee, submitted the required 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 2651 for consideration of the amendment filed October 25, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

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SEP 0 3 2003

Technology Center 2100

Greg T. Sueoka
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

In re Application of:	)	
Gyudong Kim & min-Kyu Kim	)	
Application No. 09/905,615	)	**DECISION ON REQUEST FOR**
Filed: July 13, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR MESURING PSEUDO PIXEL ERROR RATE	)	

This is a decision on the Request To Withdraw from Representation filed February 26, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed February 26, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Paul Hickman
OPPENHEIMER WOLFF & DONNELLY, LLP
1400 Page Mill Road
Palo Alto, CA 94304

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KLARQUIST SPARKMAN CAMPBELL
LEIGH & WHINSTON, LLP
ONE WORLD TRADE CENTER, SUITE 1600
121 S.W. SALMON STREET
PORTLAND OR 97204

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OCT 27 2004

OFFICE OF PETITIONS

In re Application of :
Gary B. Josephson et al :
Application No. 09/905,654 :
Filed: July 11, 2001 :
Attorney Docket No. 23-59123 :

ON PETITION

This is a decision on the petition, filed October 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 August 23, 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 1754 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

MARIA C. WALSH, ESQUIRE HONEYWELL
BUILDING NICHOLS 4
101 COLUMBIA ROAD
P.O. BOX 2245
MORRISTOWN, NJ 07962-2245

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APR 22 2004

OFFICE OF PETITIONS

In re Application of
Biggs, Charles
Application No. 09/905,686
Filed: January 9, 2001
Attorney Docket No. H0001028-4000

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 8, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed April 22, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 23, 2003. A Notice of Abandonment was mailed on March 2, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JOSEPH F. POSILLICO
SYNNESTVEDT & LECHNER LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 19107-2950

UNITED STATES
PATENT AND
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

January 16, 2002

Paper # 3

Maria C. Walsh
Building Nichols 4
101 Columbia Road
P O Box 2245
Morristown NJ 07962-2245

In re Application of:	Biggs, Charles	:	DECISION GRANTING
Application No.:	60/260560	:	PETITION
Filed:	01/09/01	:	
Attorney Docket No.:	40001028	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on November 2, 2001, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is 09/905686. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

UNITED STATES
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March 25, 2002

Paper # 4

Teresa Stanek Rea, Esq
Burns Doane Swecker& Mathis LLP
P O Box 1404
Alexandria VA 22313-1404

In re Application of:	Harris, et. al.	:	DECISION GRANTING
Application No.:	30/268410	:	PETITION
Filed:	February 14, 2001	:	
Attorney Docket No.:	006338-017	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on February 12, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,691**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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March 28, 2002

Paper # 4

Jeff A. Greene
Caterpillar Inc.
Intellectual Property Department AB 6490
100 NE Adams Street
Peoria IL 61629-6490

In re Application of:	Dickson, et. al.	:	DECISION GRANTING
Application No.:	60/304255	:	PETITION
Filed:	July 10, 2001	:	
Attorney Docket No.:	00-714	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on October 31, 2001, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,698**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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March 29, 2002

Paper # 5

Martin E. Hsia
P O Box 939
Honolulu HI 96808

In re Application of:	Wolters, Rolf H.	:	DECISION GRANTING
Application No.:	60/276868	:	PETITION
Filed:	March 19, 2001	:	
Attorney Docket No.:	2002-3	:	

This is a decision on your petition under 37.CFR 1.53(c)(3), received in the Patent and Trademark Office on March 18, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,701**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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June 19, 2002

Paper # 5

Michael R. Ward
Morrison & Foerster LLP
425 Market Street
San Francisco CA 94105-2482

In re Application of:	Yang, et. al.	:	DECISION GRANTING
Application No.:	60/271778	:	PETITION
Filed:	February 27, 2001	:	
Attorney Docket No.:	464363000300	:	

This is a decision on the petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on February 26, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The previous decision is reversed and the petition is granted. Upon further review of the petition, the claim required by 37 CFR 1.53(c)(3) was, in fact, included with the petition papers.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,704**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of
G. Scott Herron
Application No. 09/905,704
Filed: February 27, 2001
Attorney Docket No. 464363000300

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR § 1.55(a), filed February 25, 2004, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of prior-filed applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or provisional

applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications.

It appears that petitioner attempted to include an amendment, containing a reference to each prior-filed application, in the body of the petition. However, petitioner failed to comply with the requirements of 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and an amendment[1] or an Application Data Sheet, containing a reference to each prior-filed application(s) is required.

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 FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Any questions concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
for Patent Examination Policy

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[1] *Note* 37 CFR 1.121and 37 CFR 1.4(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Application of	:
G. Scott Herron	: DECISION ON PETITIONS
Application No. 09/905,704	: UNDER 37 CFR 1.78(a)(3) AND
Filed: February 27, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 464363000300	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(e) for the benefit of prior-filed applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) require that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or provisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying them by application number (consisting of the series code and serial number) and indicating the relationship of the applications.

It appears that the amendment submitted on December 13, 2004, contains a reference to an application by its International Publication Number, WO 00/56988, filed March 24, 2000. As previously stated, 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) require that the amendment contain a reference to the prior-filed application, **identifying it by application number (consisting of the series code and serial number).**

Additionally, applicant is attempting to claim benefit to provisional application No. 60/271,778, filed February 27, 2001, under 35 U.S.C. § 119(e) . However, the USPTO records indicate that applicant converted provisional application No. 60/271,778 to nonprovisional application No. 09/905,704 pursuant to 37 CFR 1.53(c)(3). Therefore, applicant may not claim benefit to provisional application No. 60/271,778 under 35 U.S.C. § 119(e) because the provisional application no longer exists.

Accordingly, applicant failed to comply with the requirements of 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii). Before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) and an amendment[1] or an Application Data Sheet, containing a reference to each prior-filed application(s) is required.

Applicant submitted a $200.00 petition fee with the present renewed petition. The Office finance records indicate that the Office credited $5.00 to applicant. Since applicant does not owe a fee for filing this renewed petition, the balance of $195.00 will be credited to Deposit Account No. 19-2555.

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

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[1] *Note* 37 CFR 1.121and 37 CFR 1.4(c).

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
for Patent Examination Policy

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May 23, 2002

Paper # 4

John Karasek, Associate Counsel (IP)
US Naval Research Laboratory
4555 Overlook Avenue SW
Washington DC 20375

In re Application of:	Beckman, et.al	:	DECISION GRANTING
Application No.:	60/290401	:	PETITION
Filed:	May 11, 2001	:	
Attorney Docket No.:	83,099	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on May 10, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,706**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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www.uspto.gov

May 20, 2003

Alan R. Stewart
Merchant & Gould PC
P O Box 2903
Minneapolis, MN 55402-0903

Re: Missing Parts Notice in Application 09/905,708

This is in response to your reply on August 27, 2002 regarding the surcharge due under 37 CFR 1.16(e).

Upon review of the application history, and requirements under 37 CFR 1.53, it was found that the surcharge was appropriately requested on the Notice.

Applicant filed a non-provisional application on April 27, 2001 which was assigned application number 09/845,082. Application papers indicate that the filing fee was not supplied upon filing. On February 4, 2002, applicant requested conversion of the application to provisional. Payment of the fees at that time were those relating to the resulting provisional, application number 60/327,572. On April 25, 2002, applicant requested conversion of the provisional to non-provisional, resulting in the application being assigned the non-provisional application number 09/905,708. It was not until April 25, 2002 that the basic utility filing fees were paid for the non-provisional application.

Because the basic filing fees for the non-provisional, utility application were submitted after the filing date granted the non-provisional, the surcharge is due under 37 CFR 1.16(e).

A new Notice is enclosed, restarting the time period for response. The time period for response runs as indicated on the Notice.

The Office apologizes for the inconvenience and for the delay in processing. You may direct any further inquiries regarding this matter to the undersigned.

Sincerely,

Janice Tippett
Program Assistant, OIPE
(703) 305-1050

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May 23, 2002

Paper # 3

Merchant & Gould PC
P O Box 2903
Minneapolis MN 55402-0903

In re Application of:	Mendoza, Jose-Filonel	:	DECISION GRANTING
Application No.:	60/327572	:	PETITION
Filed:	April 27, 2001	:	
Attorney Docket No.:	2316.1472USU1	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on April 25, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,708**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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March 28, 2002

Merchant & Gould
P. O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Mendoza, Jose-Filonel T.
Application No.: 09/845082
Filed: **April 27, 2001**
Attorney Docket No.: 2316.1472USP1

DECISION ON PETITION

This is a decision on your petition received in the Patent and Trademark Office on February 04, 2002, treated as a petition under 37 CFR 1.53(b)(2)(ii) to convert the above identified application to a Provisional application under 35 U.S.C. 111 (b) and 37 CFR 1.53(b)(2).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a Provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(b)(2), including the assignment of a new Provisional application number.

The Provisional application serial number is **60/327572.** The filing receipt for the Provisional application number will be communicated to applicant by OIPE in due course.

John Dill

John Dill, Lead Legal Instruments Examiner
Office of Initial Patent Examination

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May 23, 2002

Paper # 3

Paul J. Sutton, Esq.
Greenberg Traurig, LLP
885 Third Avenue
New York NY 10022

In re Application of:	Germain, et. al.	:	DECISION GRANTING
Application No.:	60/277097	:	PETITION
Filed:	March 19, 2001	:	
Attorney Docket No.:	0267-1904	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on March 19, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,713**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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May 23, 2002

Paper # 3

Blumenfeld Kaplan & Sandweiss PC
Suite 400
168 North Meramec Avenue
Saint Louis, MO 63105

In re Application of:	Rothman, Steven M.	:	DECISION GRANTING
Application No.:	60/288944	:	PETITION
Filed:	May 4, 2001	:	
Attorney Docket No.:	1908-95650	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on May 7, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,715**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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May 29, 2002

Paper # 3

Robert A. Brown
P O Box 2127
Northbrook IL 60065-2127

In re Application of:	Harris, Fredric J.	:	DECISION GRANTING
Application No.:	60/289877	:	PETITION
Filed:	May 9, 2001	:	
Attorney Docket No.:	HA-0109	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on May 9, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,717**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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May 29, 2002

Paper # 3

Eric B. Meyertons
Conley Rose & Tayon
P O Box 398
Austin TX 78767-0398

In re Application of:	Willson, et. al.	:	DECISION GRANTING
Application No.:	60/291664	:	PETITION
Filed:	May 16, 2001	:	
Attorney Docket No.:	5119-07900	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on May 16, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,718**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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WASHINGTON, D.C. 20231
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May 29, 2002

Paper # 3

Eric B. Meyertons
Conley Rose & Tayon
P O Box 398
Austin TX 78767-0398

In re Application of:	Willson, et. al.	:	DECISION GRANTING
Application No.:	60/291664	:	PETITION
Filed:	May 16, 2001	:	
Attorney Docket No.:	5119-07900	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on May 16, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,718**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

LAW OFFICE OF KENNETH C. BROOKS

P.O. Box 10417 Austin, Texas 78766-1417
Telephone: (512) 527-0104 Facsimile: (512) 527-0107
patentsrus@earthlink.net

FACSIMILE TRANSMITTAL SHEET

RECEIVED SEP 17 2003 TC 1700

TO: Office of Initial Patent Examination's Filing Receipt Corrections	FROM: Kenneth C. Brooks
COMPANY: United States Patent and Trademark Office	DATE: August 12, 2003
FAX NUMBER: (703) 746-9195	TOTAL NO. OF PAGES INCLUDING COVER: 3

RE:
U.S. Patent Application No. 09/905,718
Filing Date: May 16, 2001
Group Art Unit: 1762
Attorney Docket No: PA27.02V12

To Whom It May Concern:

Referring to the Updated Filing Receipt received from the United States Patent and Trademark Office regarding the above-identified patent application please find attached the aforementioned updated filing receipt with red-line changes indicating the correct filing date. Specifically, the instange patent application is a conversion of provisional patent application number 60/291,664, which was filed May 16, 2001. See attached copy of Grant of Peitition. As stated in 37 CFR section 1.53(c), the present application is entitled to be accorded the filing date of the filing of the original provisional patent application. Therefore, the filing date presently recited on the filing receipt is incorrect and should be changed to May 16, 2001, as indicated on the attached marked-up copy of the filing receipt.

Thank you for your assistance in this matter. If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Kenneth C. Brooks

KCB: as

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MOLECULAR IMPRINTS, INC.
LEGAL DEPARTMENT
P.O. BOX 81536
AUSTIN, TX 78536

COPY MAILED

OCT 18 2004

OFFICE OF PETITIONS

In re Application of :
Carlton Grant Willson et al :
Application No. 09/905,718 :
Filed: May 16, 2001 :
Attorney Docket No. PA27-02V12

ON PETITION

This is a decision on the petition, filed September 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 19, 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 1762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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May 29, 2002

Paper # 3

SYNNESTVEDT & LECHNER
SUITE 2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 19107

In re Application of:	Ricono, Thomas R.	:	DECISION GRANTING
Application No.:	60/293471	:	PETITION
Filed:	May 25, 2001	:	
Attorney Docket No.:	P24624 USA	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on May 16, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,719**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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February 2, 2002

Alan R Stewart
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903

In re Application of:
Mendoza, et al
Application No.: 09/843,542
Filed: April 27, 2001
Attorney Docket No: 2316.1502USP1

DECISION ON PETITION

This is a decision on your petition received in the Patent and Trademark Office on December 21, 2001, treated as a petition under 37 CFR 1.53(b)(2)(ii) to convert the above identified application to a Provisional application under 35 U.S.C. 111 (b) and 37 CFR 1.53(b)(2).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a Provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(b)(2), including the assignment of a new Provisional application number.

The Provisional application serial number is **60/331,334.** The filing receipt for the Provisional application number will be communicated to applicant by OIPE in due course.

Betty Robinson
Office of Initial Patent Examination

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WASHINGTON, D.C. 20231
www.uspto.gov

May 30, 2002

Paper # 4

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of:	Mendoza, Jose-Filonel	:	DECISION GRANTING
Application No.:	60/331334	:	PETITION
Filed:	April 27, 2001	:	
Attorney Docket No.:	2316.1502USU1	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on April 25, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,720**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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Central Coast Patent Agency
P.O. Box 187
Aromas, CA 95004

~~In re~~ Application of James ~~Stout~~ Application ~~No. 60/353,356~~ Filed: January 31, ~~2002~~ Attorney Docket No. STOT~~P001P~~	
	DECISION GRANTING PETITION
In re Application of James Stout Application No. 09/905,721 Filed: May 28, 2002 Attorney Docket No. P1382	

This is a decision on the Letter filed by facsimile on September 17, 2002, which is being treated as a request under 37 CFR 1.53(c)(2) to convert the application filed on January 31, 2002 (attorney docket No. STOTP001P) to a provisional application and to process the application papers filed on May 28, 2002 (attorney docket No. P1382) as a nonprovisional application claiming the benefit under 35 U.S.C. 119(e) of the STOTP001P provisional application.

On January 31, 2002, provisional application No. 60/353,356 was filed including, inter alia, 14 pages of specification, an abstract page, 6 sheets of drawings, a provisional application cover sheet, and the provisional application filing fee.

On May 28, 2002, a "Letter of Conversion from Provisional to Non-Provisional Patent Application" was filed. The "Letter of Conversion" was accompanied by, inter alia, a new specification (24 pages including 16 claims), 10 sheets of drawings, a nonprovisional application transmittal form, an abstract page, and an executed declaration. These new application papers were identified by attorney docket No. P1382 on the nonprovisional application transmittal form. The "Letter of Conversion" requested: (1) the conversion of provisional application No. 60/353,356 to a nonprovisional application[1]; and (2) the 35 U.S.C. 119(e) benefit of provisional application No. 60/353,356.[2] These two requests were conflicting since a 35 U.S.C. 119(e) benefit claim cannot be based on a nonprovisional application resulting from conversion of a provisional application.

On June 11, 2002, a decision was mailed treating the May 28, 2002 "Letter of Conversion" as a request under 37 CFR 1.53(c)(3) to convert provisional application No. 60/353,356 to a

[1] The March 22, 2002 "Letter of Conversion" stated "[A]pplicant is hereby converting provisional application, serial number 60/353,356, to a nonprovisional application."

[2] The March 22, 2002 "Letter of Conversion" stated "[A]pplicant hereby claims benefit under 35 U.S.C. 119(e) of the United States provisional patent application 60/353,356."

nonprovisional application. The June 11, 2002 decision granted the request by converting the application filed on January 31, 2002 (attorney docket No. STOTP001P) from provisional application No. 60/353,356 to nonprovisional application No. 09/905,721 with a filing date of January 31, 2002. The application papers (attorney docket No. P1382) filed on May 28, 2002 with the "Letter of Conversion" were placed in the file wrapper of nonprovisional application No. 09/905,721 as extraneous papers.

On September 17, 2002, the present petition was filed. On April 22, 2003, petitioner filed by facsimile a "Supplemental Letter" verifying that the September 17, 2002 petition should be treated as a request to: (1) convert application No. 09/905,721 (attorney docket No. STOTP001P) to a provisional application under 37 CFR 1.53(c)(2); and (2) process the application papers filed on May 28, 2002 (attorney docket No. P1382) as a nonprovisional application claiming the benefit under 35 U.S.C. 119(e) of the STOTP001P application.

The September 17, 2002 petition was filed within twelve months of the January 31, 2002 filing date of the STOTP001P application. Petitioner requests, in effect, that the STOTP001P application be converted back to a provisional application because the May 28, 2002 "Letter of Conversion" was not intended by petitioners to be a 37 CFR 1.53(c)(3) conversion request, but rather a new nonprovisional application filing using the accompanying new application papers and claiming the benefit under 35 U.S.C. 119(e) of provisional application No. 60/353,356.

The petition is granted.

After mailing of this decision the $50.00 petition fee will be charged to deposit account No. 500534 as authorized in the April 22, 2003 "Supplemental Letter".

Application No. 09/905,721 is being forwarded to Initial Patent Examination Division for:
(1) removing all the provisional application papers filed January 31, 2002 from the file of application No. 09/905,721 and placing those papers in a provisional application file wrapper assigned provisional application No. 60/353,356 (the same provisional application number originally assigned to those provisional application papers);
(2) processing the application papers filed May 28, 2002 as the nonprovisional application papers in application No. 09/905,721; and
(3) correcting Office records to show that the filing date of application No. 09/905,721 is **May 28, 2002** and for an indication that 16 claims and 10 sheets of drawings were present on filing.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-5106.

James J. Engel
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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WASHINGTON, D.C. 20231
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June 11, 2002

Paper # 3

Robert A. Brown
P O Box 2127
Northbrook OK 60065-2127

In re Application of:	Bologna, et. al.	:	DECISION GRANTING
Application No.:	60/293423	:	PETITION
Filed:	May 24, 2001	:	
Attorney Docket No.:	BH-0102	:	

This is a decision on your petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on May 22, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,722**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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#3

DECISION DISMISSING REQUEST UNDER 37 CFR 1.53(c)(3)

March 25, 2002

J.B. von Grabe
Suite A2
506 Canyon Drive
Oceanside CA 92054

This is a decision on the request filed on December 5, 2001 to convert provisional application 60/254,253 to a nonprovisional application.

The request is dismissed because it does not comply with all the requirements of 37 CFR 1.53(c)(3).

A grantable request under 37 CFR 1.53(c)(3) to convert a provisional application to a nonprovisional application must be filed within 12 months of the filing date of the provisional application and must be accompanied by the fee set forth in 37 CFR 1.17(i) and an amendment including at least one claim if no claim is present in the provisional application.

The present request, however, is not accompanied by the fee required by 37 CFR 1.17(i).

Any request for reconsideration of this decision must be filed within TWO MONTHS of the date of this decision. This time limit may NOT be extended pursuant to 37 CFR 1.136. The request must be accompanied by the fee required by 37 CFR 1.17(i).

Any inquiries related to this decision should be directed to Customer Service at (703) 308-1202.

Sincerely,

Janice Tippett
Office of Initial Patent Examination

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WASHINGTON, D.C. 20231
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June 11, 2002

Paper # 5

J.B. von Grabe
Suite A2
506 Canyon Drive
Oceanside CA 92054

In re Application of:	J.B. von Grabe	:	DECISION GRANTING
Application No.:	60/254253	:	PETITION
Filed:	December 8, 2000	:	
Attorney Docket No.:		:	

This is a decision on your Request for Reconsideration of the petition under 37 CFR 1.53(c)(3), received in the Patent and Trademark Office on May 17, 2002, to convert the above identified application to a non-provisional application under 35 U.S.C. 111 (a) and 37 CFR 1.53(c)(3).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a non-provisional application under 35 U.S.C. 111(a) and 37 CFR 1.53(b), including the assignment of a new non-provisional application number.

The non-provisional application serial number is **09/905,723**. The filing receipt for the non-provisional application will be mailed in due course.

Janice Tippett, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

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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. 6

NATH & ASSOCIATES
SUITE 600
1030 15TH ST, NW
WASHINGTON, DC 20005-1509

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OFFICE OF PETITIONS

In re Application of :
J. B. von Grabe :
Application No. 09/905,723 : ON PETITION
Filed: December 8, 2000 :
Attorney Docket No. 90141 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 20, 2002. 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 21, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

January 21, 2004

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606
US

Dear Sir/Madam,

This is to deny your refund request in the amount of $130.00, for patent/serial number 09905736.

No refund due at this time. The fee was for the late filing of a declaration.

Sincerely,

Lashaun O'Bryant
Technical Center 2800
Refund Branch, Office of Finance

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 2 6 2010

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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NIXON PEABODY LLP
Clinton Square, P.O. Box 31051
Rochester, New York 14603-1051

In re application of	:	DECISION ON PETITION
(Linda Angelone)	:	TO CORRECT INVENTORSHIP
Serial Number: 09/905,772	:	UNDER 37 CFR. 1. 48
Filed: 07/13/2001	:	
For: METHOD AND APPARATUS FOR	:	
PERFORMING ASSESSMENTS	:	

This is a decision on the petition filed on May 05, 2006 under 37 CFR 1.48(b) to correct the inventorship of the above identified application. A petition fee of $130.00 was included.

Petition is GRANTED.

The application was filed on July 13, 2001 listing Paul Gulko, Linda Angelone, Kathleen Lavin, Karen Anderson, Denise Amigo, and James Winskowicz as inventors.

On May 05, 2006, applicants filed the present petition to delete as inventors: Paul Gulko; Karen Anderson; Denise Amigo; and James Winskowicz. Applicants acknowledge that the aforementioned individual's inventions are no longer being claimed and, therefore, request that their names be deleted as inventors.

In view of the petition, this application has been corrected in compliance with 37 CFR 1.48(b). The inventorship of this application has been changed to Linda Angelone and Kathleen Lavin.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt and PTO PALM data to reflect the inventorship as corrected.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Matthew S. Gart at (571) 272-3955.

/Matthew S. Gart/
Supervisory Patent Examiner Art Unit 3687
Technology Center 3600
(571) 272-3955
Facsimile No.: (571) 273-3955

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P.O. Box 1450
Alexandria, VA 22313-1450
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Matthew E. Connors
Samuels, Gauthier & Stevens, LLP
Suite 3300
225 Franklin Street
Boston, MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Bohm et al.	:	
Application No. 09/905,786	:	
Filed: July 13, 2001	:	ON PETITION
Title of Invention:	:	
SYNCHRONIZATION PULSE DETECTION	:	
CIRCUIT	:	

This is a decision on the Petition for Removal of Application from Abandoned Status under 37 CFR 1.81, filed May 9, 2006. The petition is properly treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a).

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 22, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 23, 2005. A Notice of Abandonment was mailed April 5, 2006.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on June 6, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard. A review of the return-receipt postcard reveals that it acknowledges receipt of an Amendment Transmittal and an Amendment on June 6, 2005. Applicant also provides a copy of the Amendment Transmittal and an Amendment. A review of the Amendment Transmittal that it contains a Certificate of Mailing dated June 2, 2005.

In view of the foregoing, the holding of abandonment is hereby withdrawn. Accord MPEP § 503 and 37 CFR § 1.8.

Accordingly, the petition is granted.

The copy of the Amendment Transmittal and an Amendment, filed with the instant petition, will be used for examination purposes.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 2622 for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

RANDALL B. BATEMAN
P.O. BOX 1319
SALT LAKE CITY UT 84110-1319

In re Application of	:
Sovine et al	:
Application No. 09/905,841	: DECISION GRANTING PETITION
Filed: July 13, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 0743.ACTI.CN	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). Accordingly, the reply to the final Office action of February 20, 2003, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3711.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

CROMPTON CORPORATION
BENSON ROAD
MIDDLEBURY, CT 06749

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OFFICE OF PETITIONS

In re Application of
Jinxia Sun et al
Application No. 09/905,844
Filed: August 26, 2002
Attorney Docket No. SIL-0057-CIP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 2, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 3, 2001.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Shuji Harashima et al.	:	
Application No. 09/905,864	:	
Filed: July 17, 2001	:	DECISION ON PETITION
Attorney Docket No. 211543US2S	:	UNDER 37 C.F.R. §1.181(A)
Title: COMPUTER READABLE	:	
RECORDING MEDIUM WITH DATA	:	
MANAGEMENT PROGRAM RECORDED	:	
THEREIN AND DATA MANAGEMENT	:	
SYSTEM	:	

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on January 10, 2006.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 3, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 4, 2005. A notice of abandonment was mailed on November 10, 2005.

RELEVANT PORTION OF THE MPEP

MPEP §711.03(c) states, in part:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

See also 1156 O.G. 53 (October 25, 1993), which may be viewed at http://www.uspto.gov/web/offices/com/sol/og/con/files/cons074.htm

ANALYSIS

With the present petition, Petitioner has alleged that the mailing was not received, has set forth that he has searched both the file jacket and the docket records, and has included copies of the same.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final action of March 3, 2005,and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

CROWELL & MORING
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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AUG 2 7 2002

OFFICE OF PETITIONS

In re Application of
Roman Schertler
Application No. 09/905,913
Filed: July 17, 2001
Attorney Docket No. 622/41412F2C

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed August 20, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 21, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to 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 COMMISSIONER FOR PATENTS
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Paper No.9

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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JUL 2 2 2003

OFFICE OF PETITIONS

In re Application of
Anderson et al.
Application No. 09/905,928
Filed: July 17, 2001
Attorney Docket No.:P 0280645

ON PETITION

This is a decision on the petition filed April 7, 2003 under 37 CFR 1.181 which is being treated under 37 CFR 1.53. Petitioner has in effect requested that the "Notice of Omitted Item(s) in Nonprovisional Application" be withdrawn to the extent that it states that page 1 of the specification had been omitted.

The application was filed on July 17, 2001. However, on February 25, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in Nonprovisional Application" stating that the application had been accorded a filing date of July 17, 2001 and advising applicant page 1 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends page 1 was filed with the initial disclosure on July 17, 2001. In support, the petition is accompanied by a copy of applicant's return postcard which lists 79 pages of specification. The petition is further accompanied by a copy of page 1.

A review of page 1 of the specification filed on April 7, 2003, confirms that page 1 of the specification was part of the original application disclosure. It is obvious from the petition that no pages of the specification were actually missing on July 17, 2001. However, the Notice of Omitted Item(s) in Nonprovisional Application" mailed on February 25, 2003 was correct in stating that page 1 of the specification appeared to have been omitted. A review of the specification filed on July 17, 2001 shows many of the pages of the specification are missing page numbers. Furthermore it appears that the last page has been misnumbered. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the petition must be **dismissed**.

Since the petition was not necessitated by any error on the part of the Office, the $130 petition fee will not be refunded.

The application will be processed and examined using the application papers filed on July 17, 2001. The copy of page 1 of the specification supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The application is being returned to the Office of Initial Patent Examination for further processing with a **filing date of July 17,**

2001, using the original 79 pages of specification.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Paper No. 11

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SEP 29 2003

OFFICE OF PETITIONS

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

In re Application of :
Anderson et al. :
Application No. 09/905,928 : ON REFUND REQUEST
Filed: July 17, 2001 :
Attorney Docket No.:P 0280645 :

This is a decision on the request for refund of the petition fee submitted with the petition under 37 CFR 1.181. The petition was treated under 37 CFR 1.53. A decision on petition for the above-identified application was mailed on July 22, 2003.

Petitioner contends an entitlement to the $130.00 petition fee because it was determined page one of the specification which was the subject of the Notice of Omitted Parts (2/25/2003) was found in the application file. Petitioner states he is entitled to the petition fee because the Notice of Omitted Parts indicated the petition fee would be refunded if it is determined the item was received by the USPTO.

However, petitioner is not entitled to the refund of the $130.00 petition fee because the Notice of Omitted Parts, and the decision on the petition required additional processing due to Applicants' failure to correctly number all of the pages of specification. The last page of the specification was in fact misnumbered. Thus the Office of Initial Patent Examination was correct in sending out the Notice. It is office policy where petitioner has misnumbered or mislabelled a specification and/or drawings the petition fee is not refunded. The petition fee is retained because of applicants' failure to submit an appropriately numbered specification which necessitated the petition.

Accordingly, the request for refund is **dismissed**.

This application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Paper No. 15

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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MAY 1 9 2004

OFFICE OF PETITIONS

In re Application of
Myung C. Yoo
Application No. 09/905,969
Filed: July 17, 2001
Title of Invention: DIODE HAVING HIGH BRIGHTNESS AND METHOD THEREOF

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed March 27, 2003. 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 June 28, 2003. A Notice of Abandonment was mailed on September 24, 2003.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Sol Sheinbein
c/o Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

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OFFICE OF PETITIONS

In re Application of	:	
Benjamin Geiger, et al.	:	
Application No. 09/905,983	:	ON PETITION
Filed: July 17, 2001	:	
Attorney Docket No. 00/22326	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2003, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 1600 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Mark Terry
2250 SW 3rd Av.
Suite 500
Miami FL 33129

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Seiden :
Application No. 09/906,027 : ON PETITION
Filed: July 13, 2001 :
Attorney Docket No. Seiden :
For: WEB-ENABLED METHOD AND SYSTEM FOR MANAGING REMOTE DISPUTE RESOLUTION

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2006 (certificate of mailing date April 7, 2006), to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed June 21, 2005, which set a one month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on July 22, 2005. No Notice of Abandonment was mailed on January 4, 2006.

Applicant has submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the petition fee.[1] Accordingly, the petition under 37 CFR 1.137(b) is granted.

The power of attorney documents submitted on April 10, 2005 have been entered and made of record. All future correspondence for this application will be mailed to the above-identified correspondence address of record.

[1] The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

After the mailing of this decision, the file will be returned to Technology Center AU 3629 for consideration of the election filed on April 10, 2006 (certificate of mailing date April 7, 2006).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Ex. T. Vivlemore

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/19/06

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/906,158 Patent No.: 6884787

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: _____

ANDREW WANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1635
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 10

SWANSON & BRATSCHUN, L.L.C.
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH, CO 80129

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JUN 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Bullard, et al. :
Application No. 09/906,179 : ON PETITION
Filed: July 16, 2001 :
Attorney Docket No. RDYN.03 :

This is a decision on the petition filed January 29, 2002, requesting that the above-identified application be accorded a filing date of July 16, 2001, including Figures 2E and 5G as described in the specification. The Office sincerely apologizes for the delay in responding to the instant petition.

The application was filed on July 16, 2001. However, on November 7, 2001, the Office of Initial Patent Application mailed a "Notice To File Missing Parts" (Notice) that stated the application had been accorded a filing date, but Figures 2E and 5G as described in the specification appear to have been omitted.

In response, on January 29, 2002, the instant petition was submitted. Petitioner asserts, "it is clear from an inspection of the specification and the figures that the figure labeled Figure 2D corresponds to the text describing Figure 2E, and that Figure 2E was obviously mislabeled as "Figure 2D." It is also clear that the Figure legend for Figure 2D was inadvertently omitted from Figure 2D." Furthermore, "[t]he reference to Figure 5G is a typographical error. Reference to Figure 5G refers in actuality to Figure 5F." Petitioner has submitted a Preliminary Amendment to correct the typographical errors and re-label the Figures.

In view of the papers filed on January 29, 2002, it appears that the drawings of Figures 2D and 5G (in actuality Figure 5F) were present on July 16, 2001, but mislabelled by applicants. Since it is now clear that all required Figures were present on July 16,

2001, albeit mislabeled, the Figures may be considered as filed with the application on July 16, 2001.

The petition is granted.

Please note, the $130.00 petition fee is required, since a petition was necessary to correct applicants' filing error, and not necessitated by any error on the part of the Office.

This application will be returned to OIPE for further processing with a filing date of July 16, 2001.

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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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of Butler et al. :
Application No. 09/906,209 : Decision on Petition
Filing Date: July 16, 2001 :
Attorney Docket No. BB1451USNA :

This is a decision on the petition under 37 CFR 1.181, filed November 9, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

A Notice of Allowance was mailed June 20, 2005.

The Office did not receive a reply to the Notice of Allowance.

A Notice of Abandonment was mailed October 26, 2005.

Petitioner has established non-receipt of the Notice of Allowance and any other papers mailed by the Office on June 20, 2005. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 1638 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new Notice of Allowance, new Notice of Allowability, and new copies of all other papers previously mailed June 20, 2005. The time period for responding to the new Notices will be set to run from the mailing date of the new Notices.

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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ROES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK, NY 10020-1105

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JUN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:
James K. Hamlin	:
Application No. 09/906,222	: DECISION GRANTING PETITION
Filed: July 16, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SSA/1 CON	:

This is a decision on the petition, filed June 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2667 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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United States Patent and Trademark Office
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Paper No. 4

JAMES R. CARTIGLIA
GRAFTECH INC.
BRANDYWINE WEST
1521 CONCORD PIKE, SUITE 301
WILMINGTON, DE 19803

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AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Robert Angelo Mercuri et al :
Application No. 09/906,281 :
Filed: July 16, 2001 :
Attorney Docket No. 30022-3 :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 10, 2002, to accept an unintentionally delayed claim under 35 U.S.C.§ 120 for the benefit of prior-filed nonprovisional Application No. 09/548,118, filed April 12, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Petitioner has incorporated into the petition under 37 CFR 1.78(a)(3) an amendment to the first sentence of the specification following the title to include a reference to prior-filed nonprovisional Application No. 09/548,118, filed April 12, 2000.

The instant pending nonprovisional application was filed on July 16, 2001, and was copending with Application No. 09/548,118, at the time of filing, from which priority is claimed. While a reference to the prior-filed nonprovisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter and the oath or declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(2) is not included the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the

application within the time period set forth in 37 CFR 1.78(a)(2). However, on the other hand, if the USPTO does not note the claim for priority to the nonprovisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3).[1] In the instant case, the Office noted the claim for priority of nonprovisional Application No. 09/548,118 in the transmittal letter submitted with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,280 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Karen Creasy at (703)305-8859. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 1775 for processing the amendment filed June 10, 2002 and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional Application No. 09/548,118 filed on April 12, 2000.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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Paper No. 121404

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
Raleigh, NC 27627

JAN - 5 2004

In re Application of:	:	
George W. Oughton JR.	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 09/906,293	:	
Filed: July 16, 2001	:	
Attorney Docket No.: **P214559**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 26, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Schacht Law Office, Inc. was filed on July 02, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward P. Westin at (571) 272-1638.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

EPW/nmc

cc: Schacht Law Office, Inc.
Suite 202
2801 Meridian Street
Bellingham WA 98225-2412

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Paper No. 4

DISCOVISION ASSOCIATES
INTELLECTUAL PROPERTY DEVELOPMENT
2355 MAIN STREET, SUITE 200
IRVINE, CA 92623

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DEC 0 4 2001

OFFICE OF PETITIONS

In re Application of	:
Steven V. Holsinger	: DECISION REFUSING STATUS
Application No. 09/906,308	: UNDER 37 CFR 1.47(b)
Filed: 16 July, 2001	:
Atty Dckt No.00125804(US)USC1REC1	:
SEAG	:

This is in response to the petition under 37 CFR 1.47(b) filed on 16 October, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified reissue application was filed on 16 July, 2001, without an executed oath or declaration.

Accordingly, on 16 August, 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 16 October, 2001, the present petition and authorization to charge the petition fee and surcharge to counsel's deposit account, No. 04-1175 were filed, accompanied by, *inter alia*: a declaration naming Steven V. Holsinger as the sole inventor and signed by Dennis Fischel, President of assignee

Discovision Associates, a copy of an assignment of the rights in the subject invention from the inventor to Seagate Technology, a copy of an assignment of the rights in the subject invention from Seagate Technology to Discovision Associates, and a declaration of facts by Jeannie Benedict of Discovision Associates.

Petitioners assert that the inventor is deceased and that a copy of the application was sent to the legal representative of the deceased sole inventor, Joanne A. Holsinger. Petitioners further assert that the legal representative has failed to sign and return the declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (2) and (6).

In regards to item (2), petitioners have not provided a properly executed oath or declaration. The oath or declaration must identify both the deceased inventor and his legal representative. The oath or declaration must also identify the citizenship and mailing address, and the residence if the person lives at a location which is different from where the person customarily receives mail, for the inventor, the legal representative, and the person signing on behalf of the assignee. The declaration must also identify the title of the individual signing on behalf of the assignee.

In regards to item (6), petitioners must provide proof of irreparable damage. Rule 1.47(b) applicant must establish that the filing is necessary to prevent irreparable damage or to preserve the rights of the parties.[1]

---

[1] MPEP 409.03(g).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

DIWood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 01-02

Paper No. 7

DISCOVISION ASSOCIATES
INTELLECTUAL PROPERTY DEVELOPMENT
2355 MAIN STREET, STE. 200
IRVINE, CA 92623

COPY MAILED

JAN 10 2002

OFFICE OF PETITIONS

In re Application of	:
Steven V. Holsinger	:
Application No. 09/906,308	: DECISION ACCORDING STATUS
Filed: 16 July, 2001	: UNDER 37 CFR 1.47(b)
Attorney Docket No.	:
00125804(US)USC1REC1SEAG	:

This is in response to the renewed petition filed under 37 CFR 1.47(b) on 26 and supplemented on 31 December, 2001.

The petition is **GRANTED**.

Petitioner has shown that the legal representative of the deceased sole inventor has refused to join in the filing of the above-identified reissue application after having been sent a copy of the application papers. Specifically, the statement of Jeannie Benedict, of assignee Discovision Associates, establishes that a copy of the application papers was sent to the deceased inventor's legal representative, Joanne A. Holsinger, but Holsinger failed to sign and return the declaration. In addition, petitioners have shown, via the assignment of the invention by the inventor to Seagate Technology, and the assignment of the invention by Seagate Technology to Discovision Associates, that Discovision Associates has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, 1.64, and 1.175, and has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing legal representative of the deceased sole. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 01-02

Joanne A. Holsinger
3041 Charing Cross Road
Oklahoma City, OK 73120-4303

COPY MAILED

JAN 10 2002

OFFICE OF PETITIONS

In re Application of
Steven V. Holsinger
Application No. 09/906,308
Filed: 16 July, 2001
For: HARD SECTORING CIRCUIT AND METHOD FOR A ROTATING DISK DATA STORAGE DEVICE

Dear Ms. Holsinger:

You are named as the legal representative of the deceased sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application the deceased inventor will be designated therein as the sole inventor.

As the named legal representative 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).

Douglas I. Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DISCOVISION ASSOCIATES
INTELLECTUAL PROPERTY DEVELOPMENT
2355 MAIN STREET, STE. 200
IRVINE, CA 92623

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 16

DISCOVISION ASSOCIATES
Intellectual Property Development
P.O. Box 19616
Irvine, California 92623

MAIL

DEC 2 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Steven V. Holsinger	:	NOTICE OF WITHDRAWAL
Application No. 09906308	:	FROM ISSUE
Filed: July 16, 2001	:	UNDER 37 CFR §1.313
Attorney Docket No. 00125804(US)	:	
USC1REC1 SEAG	:	

The above-identified application is withdrawn from issue after payment of the issue due to unpatentability of one or more claims. See 37 CFR 1.313(b)(3).

The above identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Sinh Tran at (703) 305-4040.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Mark R. Powell

Mark Powell, Director
Technology Center 2600

CC: Office of Publications:

Patent Clerk, PK3-920
Supervisory Correspondence Clerk, PK3-920

Image

Pet. Sec.

Image 1722 B

OIPE JC173 FEB 2 0 2004 PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF	:	Pamela R. Moore
FOR	:	SHAPED ICE ARTICLE AND ARTICLE FOR MAKING SAME
SERIAL NO.	:	09/906,340
FILED	:	July 16, 2003
ATTORNEY DOCKET NO.	:	30618.30017

February 18, 2004
Akron, Ohio 44308-1471

Approved
Jacqueline M. Stone, Director
Technology Center 1700
JUN 29 2004

****

CERTIFICATE OF MAILING

I hereby certify that this **APPLICATION TO WITHDRAW AS ATTORNEY OF RECORD** is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the following date:

2-18-04
Date

Morgan E. Hottensmith
Morgan E. Hottensmith

****

APPLICATION TO WITHDRAW AS ATTORNEY OF RECORD

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

The undersigned, Roger D. Emerson, hereby requests permission to withdraw as attorney herein.

The reason for my requested withdrawal is that all representation between Applicant and myself has been terminated.

RECEIVED
JUN 29 2004
TC 1700

I have notified the client of all filing dates and delivered to the client all files and any information she has given to me for which I was responsible. See letter dated February 18, 2004, attached hereto as Exhibit 1. Thereby, I have effectively empowered her to carry on her own prosecution of the applications, whether pro se or by hiring another intellectual property attorney. The time for response in this application is greater than thirty days. As such, I believe I have left the applicant in a condition to carry on the prosecution of her applications without me. Therefore, I believe I have complied with all the obligations placed upon me by the U.S. Patent and Trademark Office to allow such withdraw and believe I am entitled to the application I request.

Please send all further correspondence directly to the Applicant at the address below:

Ms. Pamela R. Moore
P.O. Box 334
Tallmadge, OH 44278
(330) 630-0563

Respectfully yours,

BROUSE McDOWELL

040217
Date

Roger D. Emerson, Esq.
Reg. No. 33,169
106 S. Main Street, Suite 500
Akron, Ohio 44308-1471

Telephone No.: (330) 535-5711
Fax No.: (330) 253-8601

563753

FEB 2 0 2004
PATENT & TRADEMARK OFFICE
JC173

BROUSE McDOWELL
A LEGAL PROFESSIONAL ASSOCIATION

Roger D. Emerson
Attorney At Law
remerson@brouse.com

500 First National Tower
Akron, Ohio 44308
Telephone: 330.535.5711
Facsimile: 330.535.0446

Internet: www.brouse.com

February 18, 2004

Ms. Pamela R. Moore
P.O. Box 334
Tallmadge, OH 44278

Re: Withdrawal of Representation
SHAPED ICE ARTICLE AND ARTICLE FOR MAKING SAME
Our Ref. No.: 30618.30017

Dear Ms. Moore:

Attached to this letter please find a copy of the Application to Withdraw as Attorney of Record filed with the Commissioner for Patents in the above-referenced matter. As you will note, I have directed him to send all future correspondence and telephone inquiries to you at the above-referenced address.

Enclosed with these documents, please find a copy of all of the information I have sent to the Patent and Trademark Office on your behalf and a copy of the docket for any pending filing dates (if applicable). When you hire another attorney to represent you, he will require this information.

Very truly yours,

BROUSE McDOWELL

Roger Emerson

Roger D. Emerson, Esq.

DAC/mch/563755
Enclosures

Pet Dec.

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

Bib Data Sheet

CONFIRMATION NO. 7582

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
09/906,340	07/16/2001 RULE	249	1722	

APPLICANTS

Pamela R. Moore, Mogadore, OH;

**** CONTINUING DATA ****************************

This application is a CON of 09/225,906 01/05/1999 PAT 6,345,802 *
(*)Data provided by applicant is not consistent with PTO records.

**** FOREIGN APPLICATIONS **********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** SMALL ENTITY **
** 08/31/2001

Foreign Priority claimed ☐ yes ☐ no 35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance Verified and Acknowledged Examiner's Signature Initials	STATE OR COUNTRY OH	SHEETS DRAWING 6	TOTAL CLAIMS 22	INDEPENDENT CLAIMS 9

ADDRESS

Ms. Pamela R. Moore
P.O. Box 334
Tallmadge ,OH 44278

TITLE

SHAPED ICE ARTICLE AND ARTICLE FOR MAKING SAME

FILING FEE RECEIVED 913	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

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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TIMOTHY N. TROP
TROP, PRUNER & HU, P.C.
STE 100
8554 KATY FWY
HOUSTON, TX 77024-1805

COPY MAILED

NOV 2 2 2005

OFFICE OF PETITIONS

In re Application of
Edward O. Clopper
Application No. 09/906,343
Filed: July 16, 2001
Attorney Docket No.: INTL-0632-US (P12056)

ON PETITION

This is a decision on the petition filed August 18, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 14, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned March 15, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2674 for appropriate action on the amendment filed August 18, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

COPY MAILED
OCT 0 3 2005
OFFICE OF PETITIONS

In re Application of
Brent Bean et al.
Application No. 09/906,381
Filed: July 16, 2001
Attorney Docket Number: CNTR:2051
Title: APPARATUS AND METHOD FOR HANDLING BTAC BRANCHES THAT WRAP ACROSS INSTRUCTION CACHE LINES

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on July 25, 2005 pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

On July 25, 2005, the present petition was filed with the Office. Petitioner has submitted the petition fee and the proper statement of unintentional delay. However, notification of the filing of the foreign application did not accompany this filing.

As such, petitioner has not met the first requirement above.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petitioner is reminded that if an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made, and any petition fee would be refunded.

In view of the foregoing, this petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.137(f)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES 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

HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of
Brent Bean et al.
Application No. 09/906,381
Filed: July 16, 2001
Attorney Docket Number: CNTR:2051
Title: APPARATUS AND METHOD FOR HANDLING BTAC BRANCHES THAT WRAP ACROSS INSTRUCTION CACHE LINES

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.137(F) AND PETITION UNDER 37 C.F.R. §1.78(a)(3)

This is a decision on the renewed petition pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application, filed on October 7, 2005, and the petition under 37 CFR 1.78(a)(3), filed August 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

In regards to the renewed petition under 37 C.F.R. §1.137(f):

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on November 2, 2001. However, the United

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

A Notice of Rescission of Nonpublication Request was filed with the Office on February 21, 2005.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed on February 21, 2002, has been rescinded in a communication mailed July 5, 2005.

<u>In regards to the renewed petition under 37 C.F.R. §1.78(a)(3)</u>:

The petition under 37 C.F.R. §1.78(a)(3) is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR1.78(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).

Petitioner has set forth that the present application, which was filed on July 16, 2001, is a continuation-in-part of **subsequently filed** application number 10/920,120, which was filed on August 17, 2004. Obviously, an application cannot claim priority to an application which is not a prior-filed application. For this reason, the Office cannot accept the relationship between these two applications which Petitioner has set forth.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300 - please note this is a central facsimile number.

UNITED STATES 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

HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

COPY MAILED

SEP 13 2006

OFFICE OF PETITIONS

In re Application of :
Brent Bean et al. :
Application No. 09/906,381 :
Filed: July 16, 2001 :
Attorney Docket Number: :
CNTR:2051 :
Title: APPARATUS AND METHOD FOR :
HANDLING BTAC BRANCHES THAT :
WRAP ACROSS INSTRUCTION CACHE :
LINES :

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 24, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The original petition was submitted on October 7, 2005, and was dismissed via the mailing of a decision on January 30, 2006.

The renewed petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR

> 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2183 for consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/906,381	07/16/2001	2183	1358	CNTR:2051	9	36	5

CONFIRMATION NO. 4348

CORRECTED FILING RECEIPT

OC000000020268720

23669
HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

Date Mailed: 08/31/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Brent Bean, Austin, TX;
G. Glenn Henry, Austin, TX;
Thomas C. McDonald, Austin, TX;

Assignment For Published Patent Application

IP First LLC

Power of Attorney: The patent practitioners associated with Customer Number **23669**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/898,583 07/03/2001

Foreign Applications

If Required, Foreign Filing License Granted: 08/29/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/906,381

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

APPARATUS AND METHOD FOR HANDLING BTAC BRANCHES THAT WRAP ACROSS INSTRUCTION CACHE LINES

Preliminary Class

712

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

Roger Fulghum
Baker Botts LLP
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995

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APR 2 9 2002

OFFICE OF PETITIONS

In re Application of	:	
Eric P. Traut	:	
Application No. 09/906,392	:	DECISION GRANTING PETITION
Filed: July 16, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 068167.0109	:	

This is a decision on the petition filed April 3, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED.**

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.

Petitioner states that, on December 19, 2001, he filed a request to rescind the previously filed nonpublication request. However, the request failed to state that this application is the subject of an application filed in another country, or under a multilateral agreement, that requires publication at 18 months after filing, which is the basis for the filing of the instant petition to revive. Therefore, petitioner requests that, if it is determined that this application is abandoned by the passage of 45 days from the date of the filing of the application under the Patent Cooperation Treaty without the filing of the notice required under 35 USC 122(b))2)(B)(iii) and 37 CFR 1.213(c), the application be revived under the unintentional provisions of 37 CFR 1.137(f).

A review of the application file discloses that a request to rescind a previously filed nonpublication request was submitted on December 19, 2001. However, the request failed to notify the Office that the subject application was filed in a foreign country or under a multilateral international agreement within 45 days after the

date of filing of such foreign or international application as required by 35 USC 122(b)(2)(B)(iii). It is not sufficient for an applicant to merely rescind a previously filed nonpublication request without also notifying the Office that the subject application was filed in a foreign country or under a multilateral international agreement within 45 days after the date of filing of such foreign or international application.

In view of the above, the filing of a petition under 37 CFR 1.137(f) is the appropriate avenue of relief. The instant petition has been found 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.

A Corrected Filing Receipt which sets forth the projected publication date of June 27, 2002, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU 2123 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

OFFICE

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JAN 04 2004

Director's Office
Office of Patent Publication

MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO, CA 94105

In re Application of
Gregory B. Tilton, et al. :
Application No. 09/906,408 : **DECISION ON PETITION**
Filed: January 5, 2001 :
Attorney Docket No. 2000B001 :

This is a decision on the Petition Under 3 C.F.R. 1.181(a) Requesting Withdrawal Of The Holding Of Notice Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on October 7, 2004.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice Of Allowance and Fee(s) Due, mailed April 20, 2004, which set a three (3) month statutory period for reply. The issue fee and publication fee, due July 20, 2004, were received on July 23, 2004. Accordingly, the Notice of Abandonment was mailed on August 9, 2004.

Applicant states that they believe the Issue Fee Transmittal was filed timely filed. Applicant has enclosed the Declaration of Mary Ellen Waite, which she declares that the Issue Fee Transmittal was mailed on July 19, 2004, but failed to sign the Certificate of Mailing.

Unfortunately, the declaration of Ms. Waite doesn't support timeliness of the Issue Fee Transmittal.

The applicant has submitted a Petition For Revival under 37 CFR 1.137(b) on November 12, 2004, in the event this petition is not granted. The Petition under 1.137(b) will be forwarded to the Office of Petition for a further decision.

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail: Commissioner for Patents
Mail Stop Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703-305-8380.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of Tilton et al. Application No. 09/906,408 Filed: July 16, 2001 Attorney Docket No. DOW-04678	ON PETITION

This is a decision on the Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b) filed November 12, 2004.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee (and Publication Fee) within three months of the mailing date, April 20, 2004, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. However, the Issue Fee and Publication Fee were not filed until July 23, 2004. No reply having been timely filed, the above-identified application became abandoned effective July 21, 2004. A courtesy Notice of Abandonment was mailed on September 9, 2004.

By decision mailed January 4, 2005, the petition filed October 7, 2004, to withdraw the holding of abandonment was dismissed and the application was forwarded for consideration of the instant petition. The requirements for a grantable petition under § 1.137(b) have been met. The required reply was previously

received[2]. The petition includes the fee set forth in 37 CFR § 1.17(m), and the required statement of unintentional delay. No terminal disclaimer is required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[2] There was no distinct but concurrent requirement for new drawings.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 3 1 2004

Director's Office
Group 3700

Paper No. 15

In re Application of
Nicolas Albisetti
Application No. 09/906,416
Filed: July 16, 2001
Attorney Docket No. 62751.000006

: DECISION ON PETITION

This is a decision on the petition filed on September 22, 2003 by which petitioner requests withdrawal of the technical state of abandonment that exists as a result of the failure to pay the issue and publication fees that were due on or before August 18, 2003. A Notice of Abandonment has not been mailed. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did not receive the Notice of Allowance dated May 16, 2003, or any of the attachments thereto. Therefore, the fees could not be paid. In support of this allegation, petitioner has made a showing as discussed at MPEP § 711.03(c). The showing has been reviewed and it clearly satisfies the requirements of the Notice published at 1156 OG 53 pertaining to abandonment resulting from nonreceipt of Office correspondence. Based upon the showing, it is clear this application is not technically 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 Head Supervisory Applications Examiner for Technology Center 3700 to mail a new Notice of Allowance, together with a complete copy of the Notice of Allowability and all attachments thereto. The period for payment of the Issue Fee will run THREE MONTHS from the date upon which the new Notice of Allowance is mailed, and cannot be extended pursuant to 37 CFR 1.136. **The period for reply to certain requirements that may be set forth on the attached Notice of Allowability with respect to the submission of an oath or declaration, and with respect to certain requirements pertaining to the submission of formal drawings or drawing corrections, can no longer be extended. See 37 CFR 1.85(c), and 37 CFR 1.136(c) as amended, effective November 7, 2000, published at 65 Federal Register 54670 and 54674, respectively.**

PETITION GRANTED

Richard A. Bertsch, Director
Technology Center 3700

Hunton & Williams
Intellectual Property Department
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1109

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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Daniel E. Ovanezian
Blakely, Sokoloff,Taylor, & Zafman LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles CA 90025

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OFFICE OF PETITIONS

In re Application of :
Bart Dierickx :
Application No. 09/906,418 : ON PETITION
Filed: July 16, 2001 :
Attorney Docket Number: 16820.P378

This is a decision on the petition under 37 CFR 1.137(b), filed July 24, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of October 6, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 7, 2006. A Notice of Abandonment was mailed on June 29, 2006.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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P.O. Box 1450
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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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AUG 2 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeff Reynar, et al.	:	
Application No. 09/906,467	:	DECISION GRANTING PETITION
Filed: July 16, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.	:	
60001.0079USI1/172017.01		

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 20, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2176 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 12

CHIEF PATENT COUNSEL
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS, TN 38116

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OFFICE OF PETITIONS

In re Application of :
Christopher Patrick Carson, et al. :
Application No. 09/906,468 :
Filed: July 16, 2001 :
Attorney Docket No. 10557/206117 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 28, 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 November 29, 2002.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail future correspondence solely to the address of record.

The application file is being forwarded to Technology Center 3700, Art Unit 3732 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: Kristin D. Mallatt
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bart S. Hersko
The Procter & Gamble Co.
Miami Valley Labs
P. O. Box 538707
Cincinnati OH 45253-8707

Paper No. 20

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MAR 0 9 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Thomas W. KEOUGH *et al.*	:	
Application No. 09/906,481	:	
Filed: July 16, 2001	:	
Attorney Docket No. **8172**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice) mailed on September 2, 2004. 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 application became abandoned, by operation of law, on November 3, 2004. A Notice of Abandonment was mailed on May 11, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of computer readable form of the sequence listing; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

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 further review of the record indicates that a Change of Correspondence Address had been filed in the instant application and signed by an attorney not of record. A correspondence address cannot be changed by an attorney not of record. See 37 CFR 1.33(a)(2). Therefore, the change of address is unacceptable and all future correspondence will be directed to the address currently of record.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

David Buck
Petitions Examiner
Office of Petitions

Cc: Holly D. Kozlowski
Dinsmore & Shohl LLP
1900 Chemed Center
255 East Fifth Street
Cincinnati, Ohio 45202

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BART S. HERSKO
THE PROCTER & GAMBLE CO.
MIAMI VALLEY LABS
P. O. BOX 538707
CINCINNATI OH 45253-8707

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OFFICE OF PETITIONS

In re Application of	:	
Keough et al.	:	DECISION ON PETITION TO
Application Number: 09/906481	:	WITHDRAW HOLDING OF
Filing Date: 07/16/2001	:	ABANDONMENT
Attorney Docket Number: 8172	:	

This is a decision on the petition filed on 22 August, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 15 November, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 10 August, 2007.

Petitioner asserts that the Office action mailed on 15 November, 2006, was never received.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53

(November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Office communication was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner's counsel, registered patent practitioner Kenya T. Pierre, attests that a search of the file and docket indicate that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered, and thereby docketed for response, is attached to the petition.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application file is being referred to the Technology Center Technical Support Staff for remailing of the non-final Office action mailed on 15 November, 2006. The period for reply will be reset from the mailing date thereof.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/05/05

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.:09/906496 6896886

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

A Green

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:

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Bruce Campell — **SPE**

1654 — **Art Unit**

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TESTA HURWITZ & THIBEAULT
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Eugene A. Fitzgerald	:	
Application No. 09/906,534	:	ON PETITION
Filed: July 16, 2001	:	
Attorney Docket No. Amber.6147D2	:	

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**.

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 29, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 30, 2003.

Pursuant to petitioner's authorization, Deposit Account No. 20-0531 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.

This matter is being referred to Technology Center AU 2813 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#7

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JAN 28 2004

TECHNOLOGY CENTER 2100

Paper No. 7

Kenneth J. LuKacher
South Winton Court
Suite 304
3136 Winton Road South
Rochester, New York 14623

In re Application of: Rudy Prokupets et al. Application No. 09/906,554 Filed: July 16, 2001 For: SYSTEM FOR INTEGRATING SECURITY AND ACCESS FOR FACILITIES AND INFORMATION SYSTEMS	)))))))	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 AND M.P.E.P. §708.02(XI): COUNTERING TERRORISM**

This is a decision on the petition to make special filed December 23, 2003 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (I) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." ...
>
> 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.

The petition provides a persuasive showing that there is a nexus between the disclosed invention and countering terrorism. Accordingly, the petition is **GRANTED**.

The application is being forwarded to the examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

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APR 29 2002

OFFICE OF PETITIONS

In re Application of
Malinowski et al.
Application No. 09/906,583
Filed: July 13, 2001
Attorney Docket No.8285/253

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(b), filed August 22, 2001. This petition will be treated under 37 CFR §1.47(a).[1]

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on July 13, 2001. On August 31, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, a four-month extension of time was charged to counsel's Deposit Account, as authorized.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116, 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-

[1] Where at least one inventor has signed an oath or declaration it is appropriate for the petition to be treated under 37 CFR §1.47 (a). A petition filed under 37 CFR §1.47(b) is appropriate where all inventors have either refused to execute the oath or declaration, or cannot be located.

signing inventor. The instant petition does not satisfy requirements (1), (2) and (4).

Petitioner has shown that the non-signing inventors Kimberly Price and Julia Skladman have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Jason C. White attest a copy of the application was mailed to the non-signing inventors. The non-signing inventors' failure to respond to the application sufficiently establishes that the inventors refuse to execute the application papers.

As to co-inventor Andrew Schmidt, petitioner indicates inventor Schmidt has not been located. Petitioner contacted the purported assignee SBC/Ameritech[2] to obtain the addresses of the inventors but was unable to obtain the address of inventor Schmidt. Petitioner attempted to obtain the personnel file of inventor Schmidt from the former employer but was not successful. Petitioner also called all numbers listed to Andrew Schmidt in the Chicago area phone books but did not locate the co-inventor of this application.

However, the Office questions the inability of petitioner to obtain the last known address of inventor Schmidt from his former employer and the purported assignee. Petitioner may wish to pursue other avenues to ascertain the last known address of inventor Schmidt such as a search via an electronic database and/or make inquires of Schmidt's former colleagues. Petitioner has not made a sufficient showing that inventor Schmidt cannot be reached or that diligent effort has been made to obtain the last known address of inventor Schmidt. If petitioner obtains the last known address of inventor Schmidt, an attempt should be made to present the application papers to inventor Schmidt.

The declarations submitted with the instant petition are not in compliance with 37 CFR 1.63. Pursuant to 37 CFR 1.63(c)(1) petitioner has failed to provide the mailing address and/or the residency address of inventor Schmidt on any of the signed declarations submitted. Thus upon renewed petition, petitioner will need to add the last known address of Andrew Schmidt and have the signing inventors re-execute the declarations.

The address provided on the petition does not correspond with the address of record. If Petitioner desires to receive future correspondence regarding this application, an appropriate change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The Office acknowledges the receipt of the Information Disclosure Statement sent with the present petition.

---

[2] Proof of assignment has not been 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 FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

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AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Malinowski et al.
Application No. 09/906,583
Filed: July 13, 2001
Attorney Docket No.8285/253

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR §1.47(a), filed July 8, 2002.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on July 13, 2001. On August 31, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set a two-month period for reply. The petition filed on March 7, 2002 was dismissed.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116, 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1).

As to item (1), Rule 47 applicant has failed to show that co-inventor Schmidt was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The declaration of Jason C. White indicates a letter requesting inventor Schmidt contact Mr. White regarding signing the application papers. However, there is no indication that the application papers were mailed to inventor Schmidt. Inventor Schmidt must be presented with the opportunity to sign the application papers before rule 47 status will be granted.

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 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).

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. However, in this instance, rule 47 applicant merely states that inventor Schmidt never responded to the letter mailed to his last known address requesting that inventor Schmidt contact attorney White to arrange for the execution of the application papers.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Nancy Johnson for
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of
Walter Malinowski, Kimberly Price, Andrew Schmidt, Julia Skladman, Barry Sullivan and Curt Witte
Application No. 09/906,583
Filed: July 13, 2001
Attorney Docket No.8285/253
Title of Invention: PLATFORM FOR RAPID DEVELOPMENT OF TELECOMMUNICATIONS SERVICES

DECISION ACCEPTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 1, 2002 (certificate of mailing date October 29, 2002).

The petition is GRANTED.

Petitioner has shown that non-signing inventor Andrew Schmidt can not be reached or located and diligent effort has been used to locate the inventor. Specifically, the petition indicates application papers were sent to the last known address of Andrew Schmidt. The application papers were returned as not undeliverable. A forwarding address was not provided to former employer and inquiries to non-signing inventor's former colleagues did not yield any forwarding information. As for inventors Kimberly Price and Julia Skladman application papers were mailed to their last known addresses, neither inventor returned signed declarations. Follow-up phone calls and correspondence yielded no response. The non-signing inventors' failure to respond to the application papers sufficiently establishes that they refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

For

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Kimberly Price
3938 North Paulina
Chicago, Illinois 60613

In re Application of
Walter Malinowski, Kimberly Price, Andrew Schmidt, Julia Skladman, Barry Sullivan and Curt Witte
Application No. 09/906,583
Filed: July 13, 2001
Attorney Docket No.8285/253
Title of Invention: PLATFORM FOR RAPID DEVELOPMENT OF TELECOMMUNICATIONS SERVICES

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DEC 13 2002

LETTER

OFFICE OF PETITIONS

Dear Ms. Price:

You Kimberly Price are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

For

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JASON C. WHITE
BRINKS HOFER GILSON & LIONE
N B C TOWER
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WASHINGTON, D.C. 20231
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Andrew Schmidt
1707 Salem
Campaign, Illinois 61821

In re Application of
Walter Malinowski, Kimberly Price, Andrew Schmidt, Julia Skladman, Barry Sullivan and Curt Witte
Application No. 09/906,583
Filed: July 13, 2001
Attorney Docket No.8285/253
Title of Invention: PLATFORM FOR RAPID DEVELOPMENT OF TELECOMMUNICATIONS SERVICES

LETTER

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DEC 13 2002

OFFICE OF PETITIONS

Dear Mr. Schmidt:

You Andrew Schmidt are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

For

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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for Patent Examination Policy

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Julia Skladman
1669 Braeside
Northbrook, Illinois 60062

In re Application of
Walter Malinowski, Kimberly Price, Andrew Schmidt, Julia Skladman, Barry Sullivan and Curt Witte
Application No. 09/906,583
Filed: July 13, 2001
Attorney Docket No.8285/253
Title of Invention: PLATFORM FOR RAPID DEVELOPMENT OF TELECOMMUNICATIONS SERVICES

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DEC 13 2002

LETTER OFFICE OF PETITIONS

Dear Ms. Skladman:

You Julia Skladman are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

For

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
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for Patent Examination Policy

JASON C. WHITE
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JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Malinowski et al.	:	LETTER REGARDING
Application No. 09/906,583	:	PATENT TERM ADJUSTMENT
Filed: 13 July, 2001	:	
Attorney Docket No. 8285/253	:	

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed on 12 April, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction of the patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance was zero (0) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On 17 January, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is twenty-one (21) days. Applicants filed the instant "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" on 12 April, 2006.

The Office initially determined a patent term adjustment of twenty-one (21) days based on an adjustment for PTO delay of two hundred ninety-nine (299) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by ninety-four (94), ninety (90), and ninety-four (94) days of applicant

delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

A review of the record reveals that Applicants should have been assessed an additional delay of three hundred twelve (312) days. First, a petition under 37 C.F.R. § 1.47(a) in response to the Notice to File Missing Parts of Nonprovisional Application mailed on 31 August, 2001, was filed on 7 March, 2002. The petition was dismissed, however, and a grantable petition was not filed until 1 November, 2002. Second, the amendment submitted on 24 September, 2004, did not meet the requirements of 37 CFR 1.121, and a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on 9 November, 2004. An amendment in compliance with 37 CFR 1.121 was filed on 6 December, 2004.

37 C.F.R. § 1.704(c)(7) states:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(7) Submission of a reply having an omission (§ 1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

Therefore, Applicants should have been assessed delay for the period from 7 March, 2002 (the date the initial petition under 37 C.F.R. § 1.47(a) was filed), to 1 November, 2002 (the date a grantable petition under 37 C.F.R. § 1.47(a) was filed), or 239 days, and for the period from on 24 September, 2004 (the date the Non-compliant amendment was filed), to 6 December, 2004 (the date a compliant amendment was filed), or 73 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0) days** 299 (279+20) days of PTO delay, reduced by 590 (94+73+90+94+239) days of Applicant delay). To the extent that patentees are aware of any specific error in the PTA calculation, applicants should so advise the Office.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

This application is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

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Mailed: 5/6/05

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Paper Number

In re application of
Paul Edward Crossley
Serial No.09/906,591
Filed: July 16, 2001
For: AN IMPROVED PROCESS FOR MANUFACTURING LEATHER

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), filed October 18, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed on September 24, 2004, for failure to timely file a proper reply to the Notice of Allowance mailed May 12, 2004 be withdrawn since applicants did timely file a Request for Continued Examination(RCE) and Information Disclosure Statement(IDS) on July 22, 2004 as indicated in applicant's Certificate of Mailing. (A copy of the reply is attached to the instant petition as well as a copy of applicant's outgoing mail log for July 22, 2004.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on July 22, 2004 as evidenced by the Certificate of Mailing and by applicant's outgoing mail log of July 22, 2004 Accordingly, any holding of abandonment for failure to timely file a proper reply to the Notice of Allowance is hereby vacated, and the application is returned to pending status.

The application shall be forwarded for entry, processing and consideration of the Request for Continued Examination originally filed July 22, 2004.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Paul M. Richter
Kenyon & Kenyon
One Broadway
New York, NY 10004

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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DEC 1 2 2007

OFFICE OF PETITIONS

In re Application of Olivieri et al. :
Application No. 09/906,607 :
Filing Date: July 17, 2001 :
Attorney Docket No. IT000005US :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed August 24, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A non-final Office action was mailed December 28, 2006. The Office action set a three (3) month shortened statutory period for reply.

A reply to the Office action was filed March 27, 2007.

A Notice of Abandonment was mailed August 20, 2007. The Notice states the application is abandoned as a result of applicants' "failure to timely file a proper reply to the Office letter mailed on 27 March 2007."

Petitioner contends petitioner never received a March 27, 2007 Office action. Petitioner contends PAIR computer records fail to indicate the Office mailed an Office action on March 27, 2007.

Discussion:

The last paper mailed by the Office prior to the Notice of Abandonment was the March 27, 2007 Office action. Petitioner timely replied to the Office action on March 27, 2007. Therefore, the application is not abandoned.

The Notice of Abandonment was mailed in error and is hereby vacated. The holding of abandonment is withdrawn.

Technology Center Art Unit 2616 will be informed of the instant decision. The Technology Center will take steps to have Office records corrected to show the application is not abandoned. The examiner will consider the March 27, 2006 amendment 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

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FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Yukio Tanaka	:	
Application No. 09/906,617	:	ON PETITION
Filed: July 18, 2001	:	
Attorney Docket No. 12732-055001	:	

This is a decision on the petition, filed April 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 20, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The examiner of Technology Center AU 2629 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
FISH & RICHARDSON
1425 K STREET, N.W. 11TH FLOOR
WASHINGTON, DC 20005-3500

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : April 27, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Yukio Tanaka
Application No. :09/906,617
Filed :July 18, 2001

The above-identified application has been assigned Patent No. 7,042,446 and an issue date of May 9, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 9, 2006:

"All reference to Patent No. 7,042,446 to Yukio Tanaka of Japan for DRIVING METHOD OF AN ELECTRIC CIRCUIT appearing in the Official Gazette of May 9, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Robert Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

MAILED

JAN 1 8 2005

Technology Center 2100

In re Application of: Kim, et al.
Application No.: 09/906,619
Filed: July 18, 2001
Attorney Docket No.: P56419
For: PORTABLE COMPUTER SYSTEM AND CONTROL METHOD THEREOF

DECISION ON PETITION *UNDER 37 CFR §1.181*

This is a decision on the request for reconsideration and petition filed November 29, 2004, which is being treated as a petition under 37 CFR §1.181(a), to enter the amendment after final rejection filed on October 18, 2004.

A review of the file record indicates that a Request for Continued Examination (RCE), under 37 CFR § 1.114, was filed in the instant application on January 10, 2005. Accompanying the Request for Continued Examination, form PTO/SB/30 requests entry of the previously submitted amendment of October 18, 2004. Upon processing of the RCE request by the technology support staff, this amendment will be entered.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181(a) to invoke supervisory authority, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

The application file is being forwarded to the Technology Support Staff to process the Request for Continued Examination and to enter the amendment filed October 18, 2004. Telephone inquiries should be directed to the undersigned at 571-272-3595.

1/14/05

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

BLJ: 1/14/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of	:	
Booth, Lawrence A. Jr.	:	
Application No. 09/906,634	:	ON PETITION
Filed: July 16, 2001	:	
Attorney Docket No. 42390P9934	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 21, 2007, 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 July 28, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 29, 2005. A Notice of Abandonment was mailed May 9, 2007.

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 June 21, 2007 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.

The Advisory Action issued by the Examiner is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/906,634	BOOTH, LAWRENCE A.	
	Examiner	Art Unit	
	Jin-Cheng Wang	2628	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 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: _____.
   Claim(s) rejected: 26-36.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of Item 11:

The claim 26 is rejected as being unpatentable over Cok et al. U.S. Patent No. 6,570,584 (hereinafter Cok), in view of Usami et al. U.S. Patent No. 5,844,699 (hereinafter Usami) and Ooki U.S. Patent No. 6,348,977 (hereinafter Ooki).
Cok teaches images are converted from a three-color space format corresponding to the three primary colors to a four-color space format including the fourth color. Cok discloses in column 3-4 a color data transformation circuit 30 that converts an input color specification signal to the values necessary for controlling each of the sub-pixels 24 indicated by an X in addition to Red, Green, Blue subpixels and the transformations are typically matrix transforms. Cok then refers to the Usami et al. U.S. Patent No. 5,844,699 for the matrix transforms. Referring to the Usami's reference, there is a matrix transform for calculating the output image signals R', G' and B' based on the input R, G, and B (see Usami column 9, lines 35-65) and there is a matrix transform for calculating an additional output image signal X based on the input R, G and B (see Usami column 11, lines 50-55). Therefore Cok discloses transforming the input three-color R, G and B into the output four color R, G, B and X or the six-color R, G, B, C, M, and Y using the matrix transforms of Usami as Cok refers to Usami for the matrix transforms (Cok column 3-4). It is noted that the color X as disclosed in Cok exactly meets the claim limitation of the fourth color C' set forth in the claim 26 as the claim 26 only recites a fourth color element C'. Although the color C' may mean a Cyan of the YMCK color components, the claim 26 only recites a fourth color element C' which can be any fourth color element.
According to MPEP 2106, Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. > E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily).< In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").
Even if the fourth color C' may be a specific Cyan color component of the CMYK color system, the combined references disclose the claim limitation as shown below.
The three-color R, G, B to the four color transformation R', G', G' and C' (the broad term "a fourth color"), can be formulated from the teaching of Ooki and Usami as shown in above for the other color C'. The three-color R, G, B to the four color transformation R', G', G' and C' (the specific term "Cyan" only) can also be formulated from the teaching of Ooki and Usami as shown in above for the Cyan C'. This is because Ooki teaches in column 5 the transformation of the vector [R G B]^T for obtaining the first three colors and the fourth color C'. Therefore, incorporating the column 5 of Ooki and column 9 of Usami would have generated the [4 times 3 matrix] set forth in the claim limitation and therefore the color conversion can be formulated according to the transformation coefficients for transforming the input three-color R, G and B into the output four-color R', G', B' and C' wherein R', G', B' and C' could be merely Y, M, C, K of column 5 of Ooki or the color components R', G', B' of Usami with the exactly the same notation and meaning and the fourth color X of Usami.
Therefore, taking Cok, Ooki and Usami as a whole, the combined reference teaches that the images are converted from a three-color space format corresponding to the three primary colors to the four-color according to matrix transforms used in the color conversion and the matrix transforms can be formulated from the combined references. It would have been obvious to incorporate the matrix transforms of Usami to transform the three color R, G and B to the four-color R', G', B' and C' as Cok refers to the Usami et al. U.S. Patent No. 5,844,699 for the matrix transforms (Cok column 3-4). Moreover, it would also have been obvious to incorporate the matrix transforms of Ooki to transform the three color R, G, and B to the four-color R', G', B', and C' including the specific definitions to the meanings of the color components of the four-color such that the fourth color is specifically the Cyan color component (Ooki column 5).
Doing so would increase the color gamut and thus increase the brightness, and/or lifetime and efficiency of the display (Cok column 3, column 50-55).

DATE: 7/18/07 APPLICATION NUMBER: 09906634

DOC CODE: CTAV DOC DATE: _____

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/906,634	Applicant(s) BOOTH, LAWRENCE A.	
	Examiner Jin-Cheng Wang	Art Unit 2628	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 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: _____.
   Claim(s) rejected: 26-36.
   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).
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10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of Item 11:

The claim 26 is rejected as being unpatentable over Cok et al. U.S. Patent No. 6,570,584 (hereinafter Cok), in view of Usami et al. U.S. Patent No. 5,844,699 (hereinafter Usami) and Ooki U.S. Patent No. 6,348,977 (hereinafter Ooki).
Cok teaches images are converted from a three-color space format corresponding to the three primary colors to a four-color space format including the fourth color. Cok discloses in column 3-4 a color data transformation circuit 30 that converts an input color specification signal to the values necessary for controlling each of the sub-pixels 24 indicated by an X in addition to Red, Green, Blue subpixels and the transformations are typically matrix transforms. Cok then refers to the Usami et al. U.S. Patent No. 5,844,699 for the matrix transforms. Referring to the Usami's reference, there is a matrix transform for calculating the output image signals R', G' and B' based on the input R, G, and B (see Usami column 9, lines 35-65) and there is a matrix transform for calculating an additional output image signal X based on the input R, G and B (see Usami column 11, lines 50-55). Therefore Cok discloses transforming the input three-color R, G and B into the output four color R, G, B and X or the six-color R, G, B, C, M, and Y using the matrix transforms of Usami as Cok refers to Usami for the matrix transforms (Cok column 3-4). It is noted that the color X as disclosed in Cok exactly meets the claim limitation of the fourth color C' set forth in the claim 26 as the claim 26 only recites a fourth color element C'. Although the color C' may mean a Cyan of the YMCK color components, the claim 26 only recites a fourth color element C' which can be any fourth color element.
According to MPEP 2106, Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. > E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily).< In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").
Even if the fourth color C' may be a specific Cyan color component of the CMYK color system, the combined references disclose the claim limitation as shown below.
The three-color R, G, B to the four color transformation R', G', G' and C' (the broad term "a fourth color"), can be formulated from the teaching of Ooki and Usami as shown in above for the other color C'. The three-color R, G, B to the four color transformation R', G', G' and C' (the specific term "Cyan" only) can also be formulated from the teaching of Ooki and Usami as shown in above for the Cyan C'. This is because Ooki teaches in column 5 the transformation of the vector [R G B]^T for obtaining the first three colors and the fourth color C'. Therefore, incorporating the column 5 of Ooki and column 9 of Usami would have generated the [4 times 3 matrix] set forth in the claim limitation and therefore the color conversion can be formulated according to the transformation coefficients for transforming the input three-color R, G and B into the output four-color R', G', B' and C' wherein R', G', B' and C' could be merely Y, M, C, K of column 5 of Ooki or the color components R', G', B' of Usami with the exactly the same notation and meaning and the fourth color X of Usami.
Therefore, taking Cok, Ooki and Usami as a whole, the combined reference teaches that the images are converted from a three-color space format corresponding to the three primary colors to the four-color according to matrix transforms used in the color conversion and the matrix transforms can be formulated from the combined references. It would have been obvious to incorporate the matrix transforms of Usami to transform the three color R, G and B to the four-color R', G', B' and C' as Cok refers to the Usami et al. U.S. Patent No. 5,844,699 for the matrix transforms (Cok column 3-4). Moreover, it would also have been obvious to incorporate the matrix transforms of Ooki to transform the three color R, G, and B to the four-color R', G', B', and C' including the specific definitions to the meanings of the color components of the four-color such that the fourth color is specifically the Cyan color component (Ooki column 5).
Doing so would increase the color gamut and thus increase the brightness, and/or lifetime and efficiency of the display (Cok column 3, column 50-55).

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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AUG 2 2 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Booth, Lawrence A. Jr.	:	
Application No. 09/906,634	:	
Filed: July 16, 2001	:	
Attorney Docket No. 42P9934	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 13, 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 Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 6

Sheldon R. Meyer, Esq.
FLIESLER DUBB MEYER & LOVEJOY LLP
Fourth Floor
Four Embarcadero Center
San Francisco, CA 94111

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FEB 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Rocky Stewart, Timo Metsaportti and :
Pal Takacsi-Nagy :
Application No. 09/906,658 :
Filed: July 16, 2001 :
Attorney Docket No. BEAS-01033 :
Title: METHOD FOR PROVIDING REAL-TIME CONVERSATIONS AMONG BUSINESS PARTNERS :

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the "Response to Notice to File Missing Parts" filed October 5, 2001, which is being treated as a request to accept in the above-identified continuation application the declaration originally filed in prior application No. 09/788,150.

BACKGROUND

The above-identified application was filed on July 16, 2001, with a copy of the declaration executed by inventors Stewart and Takacsi-Nagy on behalf of themselves and on behalf of non-signing inventor Metsaportti in parent application No. 09/788,150; as well as, a copy of the petition filed in the parent application for acceptance of the declaration under §1.47(a); and 18 sheets of informal drawings. Rocky Stewart, Timo Metsaportti and Pal Takacsi-Nagy were named as joint inventors in both applications.

Accordingly, on August 3, 2001, applicants were mailed a "Notice to File Missing Parts of Application," requiring a fully executed oath or declaration, the surcharge for late filing under §1.16(e), and substitute drawings in compliance with §1.84. This Notice set a two month period for reply, with extensions of time obtainable under §1.136(a).

On October 5, 2001 (certificate of mailing October 2, 2001), applicants timely responded to the Notice, submitting another copy of the §1.47 petition filed in the parent application and 22 sheets of substitute drawings. Pursuant to applicants' authorization, the surcharge under §1.16(e) has been charged to Deposit Account No. 06-1325[1].

ANALYSIS

§1.63(d)(1) provides that:

A newly executed oath or declaration is not required under

[1] As discussed herein the application as filed did not contain a proper §1.63 declaration so the surcharge remains due.

§1.51(b)(2) and §1.53(f) in a continuation or divisional application, provided that:

> (i) The prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c) of this section;
> (ii) The continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application;
> (iii) The specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application; and
> (iv) A copy of the executed oath or declaration filed in the prior application, showing the signature or an indication thereon that it was signed, is submitted for the continuation or divisional application.

§1.63(d)(3) further provides that:

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional 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, ...; and
> > (ii) If one or more inventor(s) or legal representative(s) who refused to join in the prior application or could not be found or reached has subsequently joined in the prior application or another application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c), a copy of the subsequently executed oath(s) or declaration(s) filed by the inventor or legal representative to join in the application.

The instant application is a continuation of application No. 09/788,150, and was filed by the same inventors named in the prior application. However, the prior application has not been accorded status under §1.47. Accordingly, applicants cannot, at this time, properly respond to the "Notice to File Missing Parts" with the partially executed declaration originally filed in parent application No. 09/788,150. Thus, the instant application continues to lack an acceptable declaration.

CONCLUSION

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to submit a reply. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should address the deficiencies noted above. The reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

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 Petitions Attorney Nancy Johnson at (703) 305-0309.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

Sheldon R. Meyer, Esq.
FLIESLER DUBB MEYER & LOVEJOY LLP
Fourth Floor
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San Francisco, CA 94111

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OFFICE OF PETITIONS

In re Application of :
Rocky Stewart, Timo Metsaportti and:
Pal Takacsi-Nagy :
Application No. 09/906,658 :
Filed: July 16, 2001 :
Attorney Docket No. BEAS-01033 :
Title: METHOD FOR PROVIDING REAL-TIME CONVERSATIONS AMONG BUSINESS PARTNERS :

DECISION ON PETITION

This is in response to the "Request for Reconsideration of Petition under 37 C.F.R. §1.47(a)" filed April 16, 2002, which is being treated as a request to accept in the above-identified continuation application the declaration filed in prior application No. 09/788,150.

The above-identified application was filed on July 16, 2001, with a copy of the declaration executed by inventors Stewart and Takacsi-Nagy on behalf of themselves and on behalf of non-signing inventor Metsaportti in parent application No. 09/788,150; as well as, a copy of the petition filed in the parent application for acceptance of the declaration under §1.47(a). Rocky Stewart, Timo Metsaportti and Pal Takacsi-Nagy were named as joint inventors in both applications. In response to the "Notice to File Missing Parts of Application" mailed August 3, 2001, applicants submitted another copy of the petition filed in the parent application and paid the surcharge for late filing. However, the petition was dismissed because although a petition for §1.47 had been filed in parent application No. 09/788,150, no such status had been accorded. (Decision mailed February 11, 2002). In fact, a decision refusing status under §1.47 was issued in the parent application on February 14, 2002.

On April 16, 2002 (certificate of mailing April 9, 2002), applicant submitted a declaration for patent application signed by previously non-signing inventor Metsaportti for prior application No. 09/788,150. This declaration was filed in the parent application on February 13, 2002 (and resubmitted on April 16, 2002). This declaration has been reviewed and found in compliance with 37 CFR 1.63. In view of the joinder of the inventor, the parent application has no Rule 1.47(a) status.

In view thereof, petitioner's request to accept in this application, pursuant to §1.63(d)(1), the declaration executed in prior nonprovisional application No. 09/788,150 is **GRANTED**.

This application has no Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application file is being forwarded to Technology Center 2152 for examination in due course.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina Tartera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ONE FREEDOM SQUARE- RESTON TOWN CENTER
RESTON VA 20190-5061

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APR 3 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hitt, et al. :
Application No. 09/906,661 :
Filed: July 18, 2001 :
Attorney Docket No. CORR-002/04US :
For: PROCESS FOR DISCRIMINATING BETWEEN BIOLOGICAL STATES BASED ON HIDDEN PATTERNS FROM BIOLOGICAL DATA

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 14, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed Provisional Application No. 60/232,299, filed September 12, 2000 and Provisional Application No. 60/289,362, filed May 8, 2001.

The petition under 37 CFR 1.78(a)(6) is **DISMISSED**.

Generally, a claim of benefit under 35 U.S.C. 119(e) is required to be filed during the pendency of the nonprovisional application that seeks to claim the invention disclosed in an earlier-filed provisional application.[1] However, when the nonprovisional application is filed on or after November 29, 2000, as is in the instant case, the claim of benefit must be filed **not merely** during the pendency of the nonprovisional application, **but** within either 4 months of its filing date, or 16 months of the filing date of the provisional application, whichever is later.[2]

The claim of benefit submitted with the instant petition is filed during the pendency of the nonprovisional application, but subsequent to January 12, 2002.[3] Such a delayed claim of benefit

---

[1] Assuming the following conditions are also met: (1) the nonprovisional application is filed within 12 months of the filing date of the provisional application; (2) the provisional application is entitled to a filing date, has at least 1 common inventor as that named in the nonprovisional application, and discloses that common inventor's invention which is claimed in at least 1 claim of the nonprovisional application; (3) the basic filing fee for the provisional application has been paid. 35 U.S.C. 119(e)(1); 37 CFR 1.78(a)(4).

[2] 37 CFR 1.78(a)(5)(ii). In the instant case, the claim for benefit must be filed no later than January 12, 2002 (16 months after the September 12, 2000 filing date of the earliest filed of the two new provisional applications), which is later than November 18, 2001 (4 months after the July 18, 2001 filing date of the instant nonprovisional application).

[3] See *supra* note 2.

under 35 U.S.C. 119(e) may be accepted under a petition that includes:

(1) The claim of benefit (in the form of a specific reference to the provisional application) in an application data sheet or in the first sentence of the specification following the invention title, unless previously submitted;

(2) The $1,330 surcharge set forth in 37 CFR 1.17(t);[4]

(3) A statement that the entire delay (between the time the claim of benefit was due and the filing of the claim) was unintentional.[5]

This petition lacks (1) above.

The reference to Provisional Application No. 60/232,909 was not included in the manner specified in 37 CFR 1.78(a)(5)(iii) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(5)(ii).[6]

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on July 29, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference prior application no. 60/232,299. Due to typographical error, petitioner incorporated by reference application no. 60/232,**909**, not application no. 60/232,**299** upon initial filing.

Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

While petitioner has supplied a section 119 statement rather than a 120 statement for benefit, the above analysis applies. MPEP 201.11. Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment deleting the incorporation by reference statement with respect to application no. 60/232,299 is required.

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[4] 37 CFR 1.78(a)(6)(ii). The fee has been charged to Deposit Account No. 11-0600 as authorized in the petition.

[5] 37 CFR 1.78(a)(6)(iii); contained in petition.

[6] A reference to the title and filing date of Provisional Application No. 60/289,362 was made in the first line of the specification. The application number was not listed because it hadn't been assigned at the time.

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 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712 .

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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RESTON VA 20190-5061

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hitt, et al. :
Application No. 09/906,661 :
Filed: July 18, 2001 :
Attorney Docket No. CORR-002/04US :
For: PROCESS FOR DISCRIMINATING BETWEEN BIOLOGICAL STATES BASED ON HIDDEN PATTERNS FROM BIOLOGICAL DATA

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(6), filed July 28, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed Provisional Application No. 60/289,362, filed May 8, 2001 and Provisional Application No. 60/232,299, filed September 12, 2000

The petition under 37 CFR 1.78(a)(6) 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 18, 2001, within twelve months of the filing dates of the prior-filed provisional applications 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. 60/289,362 and 60/232,299 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing dates.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

The application is being forwarded to Technology Center AU 1631 for appropriate action on the amendment submitted July 28, 2004, 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. 60/289,362 and 60/232,299.

Charles Pearson
Director, Office of Petitions
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Avi Ashkenazi, et al.	:	
Application No. 09/906,679	:	
Filed: July 16, 2001	:	
Atty Docket No. GEN.1618P2C57	:	

This is a decision on the petition, filed November 9, 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 September 30, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1646 for further processing of the request for continued examination under 37 CFR 1.114 filed November 9, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SPE Caputa

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/906,679

Paper No.: _____

DATE : 2/27/06

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 6974689

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Lamonte M. Newsome
Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

[signature] 1646 (acting)
SPE **Art Unit**

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of	:
Roumen A. Bogoev et al	:
Application No. 09/906,792	: DECISION GRANTING PETITION
Filed: July 18, 2001	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 0942.5310001/LEA/DTJ	:

This is a decision on the petition, filed June 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 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 the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1723 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form**must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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275 MIDDLEFIELD ROAD
MENLO PARK CO 94025-3506

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OFFICE OF PETITIONS

In re Application of	:	
Ashkenazi et al.	:	
Application No. 09/906,815	:	ON PETITION
Filed: 16 July, 2001	:	
Atty Docket No. 39780-1618P2C55	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 11 October, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 3 April, 2004, for failure to timely file an appeal brief in reply to the Notice of Appeal filed on 2 February, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[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)).

On 11 October, 2004, the present petition was filed, accompanied by a Request for Continued Examination (RCE) which indicated the previously filed amendment was the submission required under 37 CFR 1.114.

The application will be forwarded to Technology Center 1600 for consideration of the RCE and amendment.

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

MAILED

JAN 29 2007

Technology Center 2100

McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182-3817

In re Application of: Lai, et al.	)	
Application No. 09/906,829	)	DECISION ON PETITION FOR
Attorney Docket No. YOR 920010521US1	)	SUPERVISORY REVIEW
Filed: July 18, 2001	)	UNDER *37 CFR §1.181*
For: METHOD AND SYSTEM FOR	)	
SOFTWARE APPLICATIONS USING A	)	
TILED USER INTERFACE		

This is in response to the petition filed on April 19, 2006, under 37 CFR §1.181, to reinstate Appeal as authorized by 37 CFR § 41.31.

A petition under this section must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. The petition filed April 19, 2006 includes elements (1) and (2) above.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

On June 2, 2005, the Examiner issued a final Office action, rejection all pending claims.

On August 5, 2005, an amendment after final rejection (37 CFR §1.116) was filed.

On August 22, 2005, an advisory action was mailed.

On August 31, 2005, Applicant filed a notice of appeal.

On October 31, 2005, Appellant filed an appeal brief.

On January 19, 2006, the Examiner REOPENED prosecution and a new Non-Final Office action was mailed, rejecting all pending claims.

On April 19, 2006, the instant petition was filed under 37 CFR §1.181, along with a supplemental appeal brief.

On May 2, 2006, a notice of appeal was filed.

RELIEF REQUESTED

The instant petition under 37 CFR 1.181 requests the following relief: to reinstate the appeal.

BASIS OF OPINION

The relevant portions of the Statutes and Rules are reproduced below. Highlighting is added to draw attention to critical phrases.

37 CFR 41.31(a). Appeal to Board.
(a) Who may appeal and how to file an appeal . (1) Every applicant, any of whose claims has been twice rejected, may appeal from the decision of the examiner to the Board by filing a notice of appeal accompanied by the fee set forth in § 41.20(b)(1) within the time period provided under § 1.134 of this title for reply.

In accordance with MPEP 1204, under 37 CFR *>41.31(a)(1)<, an applicant for a patent dissatisfied with the primary examiner's decision in the second ** rejection of his or her claims may appeal to the Board for review of the examiner's rejection by filing a notice of appeal and the required fee set forth in 37 CFR *>41.20(b)(1)< within the time period provided under 37 CFR 1.134 and 1.136. A notice of appeal may be filed after any of the claims has been twice rejected, regardless of whether the claim(s) has/have been finally rejected. The limitation of "twice ** rejected" does not have to be related to a particular application.> See Ex Parte Lemoine, 46 USPQ2d 1420, 1423 (Bd. Pat. App. & Inter. 1994) ("so long as the applicant has twice been denied a patent, an appeal may be filed").< **For example, if any claim was rejected in a parent application, and the claim is again rejected in a continuing application, then applicant **>can choose< to file an appeal in the continuing application, even if the claim was rejected only once in the continuing application.** >Applicant cannot file an appeal in a continuing application, or after filing a request for continued examination (RCE) under 37 CFR 1.114, until the application is under a rejection.

Petitioner's request for reinstatement of the appeal is proper in accordance with 37 CFR §41.31.

DECISION

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Examiner for appropriate action and consideration of the supplemental appeal brief filed April 19, 2006.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

James P. Hao
WAGNER, MURABITO & HAO LLP
Two North Market Street, Third Floor
San Jose, CA 95113

MAILED

JAN 18 2005

Technology Center 2100

In re Application of:
Shringeri
Application No. 09/906,862
Filed: July 16, 2001
For: VALUE CHAINED QUERIES IN ANALYTIC APPLICATIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 15, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed September 15, 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: INFORMATICA CORPORATION
2100 Seaport Blvd.
Redwood City, CA 94063

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-16-08

TO SPE OF : ART UNIT 2144

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/907025** Patent No.: **6990511**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

WILLIAM VAUGHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2444
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

SEP 2 2 2008

In re Application of	:	
DUCHARME, PAUL et al.	:	
Application No. 09/907,053	:	DECISION ON PETITION
Filed: July 17, 2001	:	
Attorney Docket No. VIXS015	:	

This is a decision in response to the "Petition To Withdraw Holding of Abandonment filed on January 30, 2006.

The petition is **DISMISSED**.

Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (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 June 16, 2005. The Notice of Abandonment, mailed on December 14, 2005 indicates, "The submitted fee of $0 is insufficient. A balance of $700 is due. The issue fee required by 37 CFR 1.18 is $700."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on July 15, 2005, the Issue Fee was paid by Deposit Account. On July 15, 2005, when an attempt was made by the Office of Finance, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Under 37 CFR 1.137(a), a petition for the revival of an unavoidable abandoned application

■ Under 37 CFR 1.137(b), a petition for the revival of an unintentionally abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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DEC 2 2 2008

OFFICE OF PETITIONS

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

In re Application of	:	
Paul Ducharme et al	:	
Application No. 09/907,053	:	ON PETITION
Filed: July 17, 2001	:	
Attorney Docket No. VIXS015	:	

This is a decision on the petition filed November 12, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed June 16, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 17, 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 fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTHEW G REEVES
ATTN: IP DOCKET CLERK
LOCKE LIDDELL & SAPP
3400 CHASE TOWER 600 TRAVIS
HOUSTON TX 77002

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FEB 09 2007

OFFICE OF PETITIONS

In re Patent No. 6,943,873	:	
Issue Date: September 13, 2005	:	
Application No. 09/907,148	:	DECISION ON PETITION
Filed: July 17, 2001	:	
Attorney Docket No. 020346-0007	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 1.323", filed November 23, 2005.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 1.183 is granted. Such petition under 37 CFR 1.183 should include:

(A) the processing fee required by 37 CFR 1.17(i);

---

[1] See 37 CFR 3.81.

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

The $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction have been charged to Deposit Account No. 12-1322, as authorized.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 6

Samuel A. Kassatly
6819 Trinidad Drive
San Jose, CA 95120

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Qing He et al.	:	
Application No. 09/907,152	:	ON PETITION
Filed: July 16, 2001	:	
Attorney Docket No. RR1736	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 12, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 13, 2003.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 2653 for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego CA 92121-1714

MAILED

APR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Donald T. Pian, et al.
Application No. 09/907,153
Filed: July 16, 2001
For: **ADAPTIVE RATE CONTROL FOR DIGITAL VIDEO COMPRESSION**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed February 3, 2005, which is treated as pursuant to 37 CFR §1.181. No fee is required.

The application is abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed August 26, 2004. A Notice of Abandonment has not yet been mailed.

Petitioner states that they have not received any communication from the Office subsequent to the filing of a Response to Final Office Action mailed July 9, 2004.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has not complied with the requirements set forth above. However, a review of the record indicates that the Notice of Allowance was returned to the Office. The correspondence address on the Notice of Allowance mailed on August 26, 2004 matches the address in the subject petition. Thus, there was obviously an irregularity in mailing of the Notice of Allowance and Issue Fee Due.

Accordingly, the application was not abandoned in fact, and the holding of abandonment is withdrawn. The Notice of Allowance originally mailed August 26, 2004 is vacated.

The petition is **GRANTED**.

Since it is has been established that the Notice of Allowance was not received, it is presumed that the Notice of Allowability was also not received.

The application file is being forwarded to the Technology Center's technical support staff for preparing a new Notice of Allowance and Issue Fee Due. The new Notice of Allowance and Issue Fee Due as well as Notice of Allowability will be re-mailed setting a new three month statutory period for payment of the issue fee.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAIL

Paper No. 4

MAR 3 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

CARR & FERRELL, LLP
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

In re Application of: Kwoktung B. LO	)	
Application No. 09/907,178	)	
Filed: July 16, 2001	)	**DECISION ON REQUEST FOR**
For: SYSTEM AND METHOD FOR	)	**WITHDRAWAL AS ATTORNEY**
SELECTIVELY BRIDGING AND	)	
ROUTING DATA PACKETS	)	
BETWEEN MULTIPLE NETWORKS	)	

This is a decision on the Request To Withdraw from Representation filed March 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All 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: Jim H. Salter
Blakely, Sokoloff, Taylor & Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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SEP 16 2002

OFFICE OF PETITIONS

In re Application of
Corey A. Billington et al
Application No. 09/907,212
Filed: July 16, 2001
Attorney Docket No. 10011889-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 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 29, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 30, 2001.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Document No. 5

Gary C. Honeycutt
Navarro IP Law Group, P.C.
Suite 655
801 E. Campbell Rd.
Richardson TX 75081

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NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of :
John P. Tellkamp :
Application No. 09/907,237 : DECISION ON PETITION
Filed: July 17, 2001 :
Attorney Docket No. TI-30628 :

This is a decision on the petition under 37 CFR 1.10 filed, September 30, 2002

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.10."

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be July 12, 2001, not the currently accorded date of July 17, 2001. In support thereof, petitioner filed a copy of the application transmittal showing a certificate of mailing dated July 12, 2001 and a copy of the United States Postal Service log for Express Mail package EL897699426US showing the package was "en route" on July 13, 2002, at 5:33 p.m.

Section 1.10(a) of the Title 37 of the Code of Federal Regulations indicates that correspondence received by the Patent and Trademark Office that was delivered by Express Mail will be considered filed in the Office on the date of deposit with the United States Postal Service. Where there is a discrepancy between the date of deposit as shown on the Express Mail label and the filing date accorded the correspondence by the Office, 37 CFR 1.10(c) provides that an applicant may petition to have the Commissioner accord the correspondence a filing date as of the "date in" on Express Mail label. In accordance with 37 CFR 1.10(c), a successful petition must:

> (1) . . . be 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) [provide] the number on the Express Mail mailing label was placed on a paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail; and
>
> (3) . . . include 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.

The instant petition does not satisfy the requirements of item (2) above.

Petitioner has not provided sufficient proof that Express Mail package EL897699426US was deposited with the United States Postal Service on July 12, 2001. The certificate of mailing cannot be used to establish a filing date for an application. See 37 CFR 1.8(a)(i)(A). The delivery history for the package is not sufficient proof because it only shows that the package was "en route" at 5:33 p.m. on July 13, 2001. Without any information relative to the time of pick-up or deposit, it is entirely possible that the package was deposited earlier in the day on July 13, 2001. With any renewed petition filed, petitioner must provide satisfactory evidence that the Express Mail package was either deposited or picked up on July 12, 2001.

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 facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ATMI, INC.
7 COMMERCE DRIVE
DANBURY, CT 06810

COPY MAILED
OCT 14 2005
OFFICE OF PETITIONS

In re Application of	:
Thomas H. Baum et al	:
Application No. 09/907,282	: DECISION GRANTING PETITION
Filed: July 17, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 502-CIP	:

This is a decision on the petition, filed October 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34, the signature of Tristan A. Fuierer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr.Fuierer desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Fuierer, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

---

[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).*

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement and Declaration under 37 CFR 1.132 by Thomas H. Baum.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Tristan A. Fuierer
Intellectual Property/
Technology Law
P O Box 14329
Research Triangle Park, NC 27709

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070623

DATE : June 23, 2007

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: US 6,657,356 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Darren E. Schuberg **Art Unit** 2834

UNITED STATES 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.: 02-06

Paper No:__

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FEB 16 2006

OFFICE OF PETITIONS

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of	:	
Saxe, et al.	:	DECISION
Application No. 09/907,337	:	
Filing Date: 16 July, 2001	:	
Attorney Docket No.: 9772-271-999	:	

This is a revised decision on the petition filed on 29 September, 2005, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

(It is noted, however, that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Allowability and Fees Due (copies enclosed) mailed on 5 October, 2004, with reply due under a non-extendable deadline on or before 5 January, 2005;

- the application went abandoned after midnight 5 January, 2005;

- the Office mailed the Notice of Abandonment on 3 March, 2005;

- on 23 March, 2005, Petitioner filed a Notice of Change of Address setting forth the address listed hereinabove, however, prior to that date the Address of Record appears to have been Pennie and Edmonds and then later Morgan Lewis Bockius, both with the address of 3300 Hillview Avenue, Palo Alto, CA 94304;

- the record does not reflect that a Notice of Change of Address was filed to alert the Office that an address other than 3300 Hillview Avenue, Palo Alto, CA 94304 should be used before 5 October, 2004;

- Petitioner provides no evidence that such a Notice of Change of Address was sent to and received by the Office;

- it is noted in this decision that Petitioner appears to have a practice in this matter of listing below his signature a correspondence address other than that of record–however, the Rules of Practice clearly state that each paper must be a separate paper (37 C.F.R. §1.4), and Notice of Changes of Address are to be addressed in separate papers and in advance of an action complained of (see: generally, MPEP §601.03, §405 and §711.03, and discussed, *infra*).

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]

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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.

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]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner is directed to MPEP §601.03, which provides in pertinent part:

* * *

> Where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is

---

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number. A change of correspondence address may not be signed by an attorney or agent not of record (see: MPEP §405).

* * *

Further, the commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. <u>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.</u> A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Thus, Petitioner appears not to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment is a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[8]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[9]

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[8] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[9] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[10]
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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[10] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

24341 7590 10/05/2004

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

EXAMINER
DAS, CHAMELI

ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 10/05/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/907,337	07/16/2001	James Benjamin Saxe	9772-271-999	7227

TITLE OF INVENTION: CASE-REDUCED VERIFICATION CONDITION GENERATION SYSTEM AND METHOD BY USE OF DYNAMIC SINGLE ASSUMPTION AND ASSIGNING LABELS TO VARIABLES AT CONTROL JOIN POINTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1370	$300	$1670	01/05/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 09/04) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

24341 7590 10/05/2004

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/907,337	07/16/2001	James Benjamin Saxe	9772-271-999	7227

TITLE OF INVENTION: CASE-REDUCED VERIFICATION CONDITION GENERATION SYSTEM AND METHOD BY USE OF DYNAMIC SINGLE ASSUMPTION AND ASSIGNING LABELS TO VARIABLES AT CONTROL JOIN POINTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1370	$300	$1670	01/05/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
DAS, CHAMELI	2122	717-131000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
   - ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
   - ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
   (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
   (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

   1 _____
   2 _____
   3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

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.
09/907,337	07/16/2001	James Benjamin Saxe	9772-271-999	7227

24341 7590 10/05/2004

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3000 EL CAMINO REAL
PALO ALTO, CA 94306

EXAMINER
DAS, CHAMELI

ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 10/05/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 595 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 595 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 09/04) Approved for use through 04/30/2007.

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.
09/907,337	07/16/2001	James Benjamin Saxe	9772-271-999	7227

24341 7590 10/05/2004
MORGAN, LEWIS & BOCKIUS, LLP.
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3000 EL CAMINO REAL
PALO ALTO, CA 94306

EXAMINER
DAS, CHAMELI

ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 10/05/2004

Notice of Fee Increase on October 1, 2004

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2004, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" because some fees will increase effective October 1, 2004. See Revision of Patent Fees for Fiscal Year 2005; Final Rule, 69 Fed. Reg. 52604, 52606 (May 10, 2004).

The current fee schedule is accessible from WEB site (http://www.uspto.gov/main/howtofees.htm).

If the fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due" but not the correct amount in view of the fee increase, a "Notice of Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice of Pay Balance of Issue Fee," if the response to the Notice of Allowance is to be filed on or after October 1, 2004 (or mailed with a certificate of mailing on or after October 1, 2004), the issue fee paid should be the fee that is required at the time the fee is paid. See Manual of Patent Examining Procedure (MPEP), Section 1306 (Eighth Edition, Rev. 2, May 2004). If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously-paid issue fee should be paid. See MPEP Section 1308.01.

Effective October 1, 2004, 37 CFR 1.18 is amended by revising paragraphs (a) through (c) to read as set forth below.

Section 1.18 Patent post allowance (including issue) fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:
By a small entity (Sec. 1.27(a)) $685.00
By other than a small entity $1,370.00
(b) Issue fee for issuing a design patent:
By a small entity (Sec. 1.27(a)) $245.00
By other than a small entity $490.00
(c) Issue fee for issuing a plant patent:
By a small entity (Sec. 1.27(a)) $330.00
By other than a small entity $660.00

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 09/04) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)	
	09/907,337	SAXE ET AL.	
	Examiner	Art Unit	
	CHAMELI C DAS	2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *the terminal disclaimer filed on 8/9/04*.

2. ☒ The allowed claim(s) is/are *1-27*.

3. ☒ The drawings filed on *16 July 2001 and 13 November 2001* are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 9/21/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

1. This action is in response to the terminal disclaimer filed on 8/9/04.

2. In view of Terminal Disclaimer filed on 8/9/04, the double patenting rejection of the claims 1-27, made in the earlier office action is hereby withdrawn.

3. Claims 1-27 have been allowed.

REASON FOR ALLOWANCE

4. The following is an examiner's statement of reason for allowance:

The cited prior art taken alone or in combination fail to teach, in combination with the other claimed limitations, a method for applying at least one precondition operator to the computer program to produce a verification condition which includes a single instance of a subexpression derived from the expression following the control join point, wherein, while applying the at least one precondition operator to the computer program, a label is given to a value, at the control join point, of a variable that is modified on at least one of the conditional program execution paths, as recited in the independent claims 1, 16 and 22.

Conclusion

5. The prior art made or record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Program verifying system, program verifying method, and storage medium for storing software of program verifying method, US 6772410 B1

TITLE: Method for verifying the total correctness of a program with mutually recursive procedures, US 5963739 A

TITLE: Computer system and method for converting a conversational statement to computer command language, US 5555169 A

TITLE: Method and apparatus for statically analyzing a computer program for data dependencies, US 5987252 A

TITLE: Pipeline processing apparatus for executing instructions in three streams, including branch stream pre-execution processor for pre-executing conditional branch instructions, US 4991080 A

TITLE: A framework for combining analysis and verification, author: Heintz et al, ACM, January 2000.

TITLE: Constructing Compact Models of Concurrent Java Program, author: Corebett et al, ACM, 1998.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 703-305-1339.

The examiner can normally be reached on Monday-Friday from 7:00 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Tuan Dam can be reached at 703-305-4552. The fax number for this group is (703) 872-9306.

After October 25, 2004, the examiner can be reached at new telephone number (571) 272-3696, and the examiner's supervisor Tuan Dam can be reached at (571) 272-3695.

An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-9600.

Chameli C. Das
CHAMELI C. DAS
PRIMARY EXAMINER
9/24/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JAN 21 2009

OFFICE OF PETITIONS

In re Application of
Jeff Reynar et al
Application No. 09/907,418
Filed: July 17, 2001
Attorney Docket No. 60001.0080USI1/172018.01

ON PETITION

This is a decision on the petition, filed January 19, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 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 2163 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/
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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APR 16 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington DC 20005-3096

In re application of Julie A. Lerner Application No. 09/907,450 Filed: July 18, 2001 For: SYSTEM AND METHOD FOR PHYSICALS COMMODITY TRADING	: : : : :	**DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY**

This is a decision on the request filed on June 18, 2002 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as an attorney of record in the above-identified application. The delay in deciding this petition is regretted.

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 of record is not accepted in the above-identified application because the request does not meet condition A).

The original power of attorney granted power to 46 attorneys of the firm of McDermott, Will & Emery, including the signing attorney Mr. Strickland. Mr. Strickland requests withdrawal "on behalf of himself and the following attorneys". However, no other attorneys are listed. It is unclear whether Mr. Strickland is withdrawing on behalf of himself only or on behalf of himself and all attorneys of record.

SUMMARY: Request For Withdrawal of Attorney is **NOT APPROVED .**

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/mjz: 4/5/04

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AUG 16 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

In re application of
Julie A. Lerner
Application No. 09/907,450
Filed: July 18, 2001
For: SYSTEM AND METHOD FOR PHYSICALS COMMODITY TRADING

: **DECISION ON REQUEST**
: **FOR WITHDRAWAL OF**
: **ATTORNEY**

This is a decision on the request filed on June 4, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A).

As to Item A, it is not clear whether the attorney signing the request is signing to withdrawal on behalf of himself and all the attorneys of record or just the attorneys who listed in the request.

All the attorneys given power in the original Declaration/Power of Attorney are not indicated as being withdrawn in the Request for Withdrawal of Attorney. It is suggested that the signing attorney withdraw on behalf of himself and all attorneys of record if that is the intent of the petition.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/vdb: 7/13/04

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McDermott Will & Emery LLP
600 13th Street, N.W.
Washington, DC 20005-3096

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APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Julie A. Lerner	:	
Application No. 09/907,450	:	DECISION ON PETITION
Filed: July 18, 2001	:	TO WITHFRAW
Attorney Docket No. 103264-010200	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed October 20, 2004.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to McDermott will & Emery LLP has been revoked by the assignee of the patent application on June 27, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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. 4

JAMES G. GATTO
MINTZ, LEVIN, FERRIS, GLOVSKY AND POPEO, P.C.
SUITE 400
11911 FREEDOM DRIVE
RESTON VA 20190

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MAR 2 6 2002

OFFICE OF PETITIONS

In re Application of DiDomenico, Johnson, Stedman, and Bishop, and Williams Application No. 09/907,451 Filed: 18 July, 2001 Atty Dkt #23439-001 (Formerly 47382	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on 30 January, 2002.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor John DiDomenico has refused to sign the application and that non-signing inventor James Johnson cannot be found. Specifically, petitioners have shown that a copy of the application was sent to the last known addresses of both inventors. Joint inventor DiDomenico sent a letter to counsel on 25 January, 2002, stating that he had reviewed the application but would not sign the declaration. Additionally, the application sent to joint inventor Johnson was returned as undeliverable.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The filing fees and late-filing surcharge have been charged to counsel's deposit account, No. 50-0311, in accordance with the fee authorization submitted by facsimile on 25 March, 2002.

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

COMMISSIONER FOR PATENTS
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John Russel Uren, P. Eng.
Suite 202
1590 Bellevue Avenue
West Vancouver, BC V7V 1A7
CANADA

MAILED

JUN 13 2003

Director's Office
Group 3700

Paper No. 18

In re Application of
MURGU ET AL.
Application No.: 09/907,467
Filed: July 16, 2001

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on petitioner's request filed June 6, 2003 to review the Notice Regarding Change of Power of Attorney, mailed May 22, 2003.

The petition is granted.

37 CFR 1.4(b) states:
(c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

37 CFR 1.33(b) states:
(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with §1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

In support of the request, petitioner has submitted 1) a Declaration by John Russell Uren, previous attorney of record, 2) a copy of the original declaration and power of attorney original patent application naming Christian Murgu, William John Haklander, and Edgar C. Robinson as co-inventors, 3) a Notice of Recordation of Assignment Document with copy of assignment papers, 4) a copy of the Notice Regarding Change of Power of Attorney, and 5) a declaration by Edgar C. Robinson, one of the inventors.

On April 25, 2003, a Revocation and Reappointment of Power of Attorney and an Expedited Petition to Correct Inventorship and For Access were filed by or on behalf of one of the inventors, Christian Murgu. While the Expedited Petition to Correct Inventorship and For Access indicate that accompanying Declarations by Christian Murgu and James M. Rixen were submitted, none were found in the application. In response to the Revocation of Power of Attorney, a Notice Regarding Change of Power of Attorney and a Notice of Acceptance of Power of Attorney were mailed on May 22, 2003 by the USPTO accepting the new power of attorney.

With regard to the Expedited Petition to Correct Inventorship and for Access, this paper will not be considered further since the petition to correct inventorship and petition for access are distinct subject matters requiring separate papers as set forth in 37 CFR 1.4(c).

A review of the Revocation and Reappointment of Power of Attorney submitted on April 25, 2003 reveals that only one of the three applicants signed the paper. As indicated in 37 CFR 1.33(b), for papers to be accepted by the Office that are submitted by the applicants, all applicants must sign. Therefore, the revocation of the Power of Attorney was in error. It is further noted that while petitioner filed a copy of the assignment papers, no action had been previously taken by the assignee in this application.

In view of the above, the Notice Regarding Change of Power of Attorney and Notice of Acceptance of Power of Attorney mailed May 22, 2003 were in error and are hereby vacated. The previous power of attorney will be reinstated. This application is being forwarded to the technical support staff for correction of the power of attorney.

Additionally, a Notice of Non-responsive was mailed June 3, 2003 to the new power of attorney. Since this was mailed to an incorrect address, the Notice is vacated and a new action will be mailed in due course restarting the period for response.

Summary: Petition to withdraw Revocation and Appointment of Attorney of Record is granted.
Notice of Non-responsive mailed June 3, 2003 is vacated.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Cc: KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

W. Edward Johansen
11661 San Vicente Boulevard
Los Angeles, CA 90049

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DEC 27 2002

OFFICE OF PETITIONS

In re Application of	:	
Patrick Oscar Boykin, et al.	:	
Application No. 09/907,471	:	ON PETITION
Filed: July 16, 2001	:	
Attorney Docket No. OSCAR#7	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed September 6, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 7, 2001.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAR 23 2010

OFFICE OF PETITIONS

W. EDWARD JOHANSEN
11661 SAN VICENTE BOULEVARD
LOS ANGELES CA 90049

In re Application of	:	
Patrick Oscar BOYKIN, et al	:	
Application No. 09/907,471	:	ON PETITION
Filed: July 16, 2001	:	
Attorney Docket No. OSCAR#7	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). An appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 14, 2008. An extension of time for one (1) month under the provisions of 37 CFR 1.136(a) was obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 15, 2009. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center 2421 for further processing by the Examiner in the normal course of business.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 18

Thomas J. Perkowski, Esq., P.C.
Soundview Plaza
1266 East Main Street
Stamford, CT 06902

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MAR 25 2003

OFFICE OF PETITIONS

In re Application of :
Dickson et al. :
Application No. 09/907,491 :
Filed: July 17, 2001 :
Attorney Docket No. 108-010USACB0 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2002, which has been treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the nonfinal Office action mailed June 4, 2002, which set a three-month shortened statutory period to respond. A Notice of Abandonment was mailed on December 11, 2002.

In the present petition, petitioners asserted that they filed a timely response to the nonfinal Office action. Upon a review of the file, it appears that petitioners submitted an Amendment on December 12, 2002 (certificate of mailing December 4, 2002), a request for a three-month extension of time to reply, and a $920.00 extension of time fee. Accordingly, the Notice of Abandonment is hereby vacated. The holding of abandonment is withdrawn and the application is restored to pending status in view of the fact that the amendment is being considered as timely filed and received in the USPTO.

The petition fee of $640.00 will be credited to Deposit Account No. 16-1340, as requested by petitioners.

This application file is being forward to Technology Center 2800 for review of the amendment submitted on December 12, 2002 (certificate of mailing December 4, 2002).

Telephone inquiries 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

Technology Center 1700

rvk

Mailed: APR 2 2 2004 Paper Number: ____

In re application of :
S.V.Screenivasan et al : DECISION ON
Serial No. 09/907,512 : PETITION
Filed: Janauary 13, 2000 :
For: HIGH-RESOLUTION OVERLAY ALIGNMENT METHODS AND SYSTEM FOR IMPRINT LITHOGRAPHY :

This is a response to the PROOF OF MAILING UNDER 37 CFR 1.8(b), filed January 06, 2004. The Proof of Mailing is in response to a Notice of Abandonment mailed December 30, 2003 for failure to timely file a proper response to the Office letter mailed June 03, 2003. Applicants filed this Proof of Mailing under 37 CFR 1.8(b) to show that a response to the June 03, 2003 Office letter was timely filed on September 18, 2003.

DECISION

Since the applicants assert that the Office letter was timely replied to, this Proof of Mailing under 37 C.F.R 1.181(b) is treated as a petition to withdraw holding of abandonment under 37 C.F.R. 1.181 (no fee).

The evidence presented in the Proof of Mailing filed January 06, 2004 is sufficient to establish that the applicants did in fact reply to the Office letter of June 03, 2003 in a timely manner. The submitted evidence are : (1) a Declaration by Alexis Sheffield who signed the Certificate of Mailing ,indicating that the response was filed on September 18, 2003; (2) copies of the Amendment and Petition for Extension of Time with one month under 37 CFR 1.136(a) with an executed Certificate of Mailing on September 18, 2003; and (3) a copy of the returned stamped postcard dated September 22, 2003 acknowledging receipt by the USPTO.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application will be forwarded to the Technical Support Staff for entering of the Response/Petition for Extension of Time dated September 18, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MOLECULAR IMPRINTS,INC
LEGAL DEPARTMENT
P.O.BOX 81536
AUSTIN, TX 78708-1536

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MOLECULAR IMPRINTS, INC.
LEGAL DEPARTMENT
P.O. BOX 81536
AUSTIN TX 78708-1536

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JUL 1 6 2004

OFFICE OF PETITIONS

In re Application of
Sidlgata V. Sreenivasan et al
Application No. 09/907,512
Filed: July 16, 2001
Attorney Docket No. PA13-03V04

ON PETITION

This is a decision on the petition, filed July 1, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1756 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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BOARD OF REGENTS
THE UNIVERSITY OF TEXAS SYSTEM
P.O. BOX 81536
AUSTIN TX 78708-1536

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Sreenivasan et al.	:	
Application No. 09/907,512	:	
Filed: July 16, 2001	:	ON PETITION
Title of Invention:	:	
HIGH-RESOLUTION OVERLAY	:	
ALIGNMENT METHODS FOR	:	
IMPRINT LITHOGRAPHY	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Corrected Notice of Allowance and Issue Fee Due, ("Notice"), mailed March 25, 2005. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on June 26, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has submitted the issue fee.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Oct-05

LADAS & PARRY
26 WEST 61 STREET
NEW YORK NY 10023

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Kerzendorf et al.	:	
Application No. 09/907,513	:	DECISION ON PETITION
Filed: 17 July, 2001	:	
Atty Docket No. U 013457-4	:	

This is a decision on the petition filed on 30 August, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.[2]

---

[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)).

[2] It is noted that a petition under 37 CFR 1.181 to withdraw the holding of abandonment was filed on 6 June, 2005, prior to the filing of the present petition to revive. The filing of the present petition to revive the application is being construed as a request not to pursue the petition under 37 CFR 1.181. As such, the petition under 37 CFR 1.181 will not be further considered. Petitioners must inform the Office if this is an incorrect interpretation.

The petition is **GRANTED**.

The application became abandoned on 4 September, 2004, for failure to file a proper reply to the final Office action mailed on 3 May, 2004, which set a three (3) month shortened statutory period for reply. On 7 September, 2004 (certificate of mailing date 31 August, 2004), petitioners filed an amendment after final rejection, a one (1) month extension of time, and a statement of accuracy of translation containing the certificate of mailing. The amendment did not place the case in condition for allowance, however, and an Advisory Action was mailed on 3 November, 2004. Notice of Abandonment was mailed on 15 March, 2005.

Petitioners have filed a Request for Continued Examination (RCE) and have indicated that the previously filed amendment is the submission required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 2121 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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SEP 28 2005

Technology Center 2100

Ladas & Parry
26 West 61 Street
New York, NY 10023

In re Application of: Kerzendorf, et al.	)	
Application No. 09/907,513	)	DECISION ON PETITION TO
Attorney Docket No. U 013457-4	)	WITHDRAW HOLDING OF
Filed: 17 July 2001	)	ABANDONMENT UNDER 37 CFR
For: SENSOR SYSTEM AND METHOD	)	§1.181
FOR DETERMINING SYSTEM STATES	)	

This is a decision on the petition filed June 6, 2005, to withdraw the holding of abandonment of the above-identified application, under 37 C.F.R. § 1.181.

The instant application became abandoned for failure to properly respond to the Office action (Final Rejection) mailed May 3, 2004. A Notice of Abandonment was mailed on March 15, 2005.

The Petition is **DENIED**.

Recent Prosecution History

On June 18, 2003, a Non-Final Office action was mailed, rejection all pending claims 1-8 under 35 USC 112 (2nd paragraph).

On October 23, 2003, an amendment was filed in response to the Non-Final Office action, canceling claims 1-8 and adding new claims 9-28.

On May 3, 2004, a Final Office action was mailed, rejecting claims 9-10, 13-20 & 23-28 on prior art, and indicating claims 11-12 & 21-22 to be objected to.

On September 7, 2004, an after final amendment and response was filed, including a partial translation of the foreign priority document (claims 1-11) as well as a signed statement of accuracy of the translation.

On November 3, 2004, an Advisory Action was mailed, denying entry of the after final amendment submitted Sept. 7, 2004 for failure to place the instant application in condition for allowance.

On March 15, 2005, a Notice of Abandonment was mailed.

On June 6, 2005, the instant petition was filed.

Relief Requested

The instant petition requests the following relief: 1) withdrawal of the finality of the May 3, 2004 Office action and corresponding entry of the after final amendment; and 2) withdrawal of the holding of Abandonment.

Analysis

1) The request for Withdrawal of the finality of the Office action mailed October 25, 2004 will be addressed first.

A petition under 37 CFR §1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. ***Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings.*** In addition § 1.181(f) sets forth: ***any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely***. Further, when a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, ... it may be required that there have been a proper request for reconsideration (37 CFR §1.111) and a repeated action by the examiner.

The petition initially filed on June 6, 2005 includes elements (1) and (2) above. However, the petition was not filed within two months of the action (Advisory Action, mailed November 3, 2004) from which the relief is requested i.e. the Examiner maintaining his position in response to the request for reconsideration (of the propriety of the Final rejection of May 3, 2004).

Therefore, the request to withdraw the finality of the May 3, 2004 Office action is **DENIED.**

However, in order to clarify the prosecution record, a brief analysis will be proffered. Following a first Official action on the application, the Applicant submitted an amendment canceling all the original claims and presenting new claims for examination. Pursuant to the amendment, the Examiner made the next action final, which was mailed on May 3, 2004.

In Applicant's after final response, dated September 7, 2004, Applicant submitted an amendment to the claims that the Examiner observed in accordance with 37 C.F.R. § 1.116 and thus determined that the response was not admissible. In the Advisory Action, dated November 3, 2004, the Examiner indicated, inter alia, that the amendment to claim 9 did not comport with the criteria for admission of an amendment After Final by raising new issues and considerations. Thus, as indicated by the Examiner in the Advisory Action, Applicant's response, dated September 7, 2004, did not satisfy the After Final practice under 37 C.F.R. § 1.116 for entry of the response by placing the application clearly in condition for allowance.

Since Applicant's amendment, dated September 7, 2004 was not entered as it did not comply with the conditions for admission After Final, it therefore, precluded consideration of the arguments regarding the priority issue, as part of Applicant's September 7, 2004 submission (that was denied entry).

It is noted that in the Advisory Action mailed November 3, 2004, unfortunately, the Examiner erroneously made reference to a set of claims 1-11, which were from Applicant's foreign filing and irrelevant to the instant issue. The Office regrets the Examiner's allusion to the set of claims 1-11, however, this extraneous reference does not vitiate the substance and propriety of the Advisory Action. The communication indicates that the Examiner did review Applicant's amendment (claims 9-29) and determined that the amendment to claim 9 would not be entered. Consequently, the Final Rejection remains proper. Further, contrary to Applicant's remarks and that indicated on the transmittal sheet filed September 7, 2004, a **complete copy** of the English language translation of the foreign priority document (DT 100 35 281.2, filed July 18, 2000) has not yet reached the file. Only claims 1-11, as identified above, have reached the instant application.

As set forth in 37 C.F.R. § 1.135(b), ***"[t]he admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment."*** [emphasis added]

Since expiration of the statutory period of sixth month period, from the mailing of the final rejection on May 3, 2004 had expired prior to the mailing of the notice of abandonment on March 15, 2005, the holding of abandonment is maintained and deemed to be proper.

The petition to withdraw the holding of abandonment is therefore **DENIED.**

It is noted that the instant application includes the filing of a petition to revive the application under 37 CFR § 1.137, filed August 30, 2005 as well as a request for continued examination filed on the same date. The application is being forward to the Office of Petitions to decide the petition filed under 37 CFR § 1.137.

Telephone inquiries should be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

Jack Harvey, Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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United States Patent and Trademark Office
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

Mail Date: 07/26/2010

Applicant	: Scott Santoro	: DECISION ON REQUEST FOR
Patent Number	: 7660039	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/907,536	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/16/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **219** 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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United States Patent and Trademark Office
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Paper No. 5

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

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MAR 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Asbjorn Buanes :
Application No. 09/907,553 : DECISION ON PETITION
Filed: July 16, 2001 :
Attorney Docket Number: :
BRYPAT1.001AUS :

This is a decision on the Petition to Accept an Unintentionally Delayed Translation of a Provisional Application, filed January 24, 2002.

This Petition is **dismissed as moot**.

The above-identified application claims priority to prior-filed non-English language provisional application number 60/218,320. The instant petition seeks acceptance of an unintentionally delayed English language translation of 60/218,320.

Petitioner also requests waiver of the fee for acceptance of an unintentionally delayed claim for priority, $1280.00, because the proposed rulemaking of September 5, 2001, proposed to amend 37 CFR 1.78(a)(5) such that applicant will be notified and given a period of time within which to file an English language translation of the non-English language provisional application and a statement that the translation is accurate to avoid abandonment of the nonprovisional application. Petitioner further contends that the surcharge is unduly onerous. Finally. Petitioner argues that bereavement leave interfered with Petitioner's ability to timely meet the deadline for filing the English language translation of the non English language provisional application and a statement that the translation is accurate.

Applicable Law

> Section 1.78(a)(5) is [] amended to provide that if a provisional application was filed in a language other than English and an English-language translation of the provisional application and a statement that the translation is accurate were not previously filed in the provisional application or the nonprovisional

> application, applicant will be notified and given a period of time within which to file an English-language translation of the non English-language provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application. Thus, §1.78(a)(5) no longer provides that if a provisional application was filed in a language other than English, a claim to the benefit of such provisional application is waived if an English language translation of a non-English language provisional application is not submitted within the later of four months from the actual filing date of the nonprovisional application or sixteen months from the filing date of the prior-filed provisional application.

66 F.R. 67087, at 67089-90 (December 28, 2001)

In view of the rule change, no fee for acceptance of an unintentionally delayed claim for priority is due, and none has been charged.

As to Petitioner's arguments that the fee is onerous and that bereavement leave interfered with Petitioner's ability to timely meet the deadline for filing the English language translation of the non-English language provisional application and a statement that the translation is accurate, petitioner is hereby informed that fees are set by statute and can not be waived. *See* 37 CFR 1.183 and 35 USC 41.

The English language translation of non-English language application, number 60/218,320 has been entered and made of record.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to petitions attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances Hicks

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JUN 2 7 2003

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BANNER & WITCOFF LTD.,
ATTORNEYS FOR AT & T CORP
1001 G STREET , N.W.
ELEVENTH STREET
WASHINGTON DC 20001-4597

In re Application of:
Gerszberg et al.
Application No. 09/907,582
Filed: July 19, 2001
For: **VIDEO PHONE MULTIMEDIA ANNOUNCEMENT MESSAGE TOOLKIT**

DECISION ON PETITION

This is a decision on the Petition filed May 20, 2003, which is being treated under 37 C.F.R. § 1.8 to withdraw the holding of abandonment.

A Notice of Abandonment was mailed May 5, 2003 for failure to timely respond to the Office action mailed October 1, 2002.

Petitioner alleges to have timely submitted a response to the Office action. In support, the Petitioner has included the response with a return postcard stamped November 18, 2002. The response includes a copy of the postcard, a transmittal form, a fee transmittal form for FY2002, an amendment, a supplemental information disclosure statement (IDS), and formal drawings.

The original response was not matched with the file at the time the Notice of Abandonment was mailed 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 a *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Office but not matched with the application file.

Accordingly, the holding of abandonment is hereby vacated and withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the technical support staff for entry of the response, whereafter, it will be forwarded to the Examiner for further examination.

James L. Dwyer, Director
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John W. Ryan
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037-1420

In re Application of:	)	
Manuel Gonzalez et al.	)	
Application No. 09/907,583	)	**DECISION ON REQUEST FOR**
Filed: July 19, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: ON-LINE SELECTION OF SERVICE PROVIDERS IN DISTRIBUTED PROVISION OF SERVICES ON DEMAND	)	

This is a decision on the Request To Withdraw from Representation filed March 26, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed March 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: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

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Paper Number: ____

In re application of
Manish Sakar et al
Serial No. 09/907,647
Filed: July 19, 2001
For: THICKENED AQUEOUS COATING COMPOSITIONS CONTAINING FILM-FORMING POLYMERIC BINDER :

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE, filed May 24, 2004. The petition requests withdrawal of any holding of abandonment which may be issued for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed April 29, 2003. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due of April 29, 2003 were not received by the applicants. No actual Notice of Abandonment has as yet been mailed.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due of April 29, 2003 were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed April 29, 2003 were not received. Also provided are a copy of the Attorney's docket record in the Legal Star docket system for SN 09/907,647 (Attorney Docket No. 50942) where the Notice of

Allowability and Notice of Allowance and Issue Fee Due of April 29, 2003 would have been posted had it been timely received, and an Affidavit of Dawn A. Madison, a Paralegal for The Glidden Company,verifying the non-receipt of the Notice of Allowability and Notice of Allowance and Issue Fee Due of April 29, 2003.

Therefore, the application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due of April 29, 2003 to the new correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KENNETH J. STACHEL
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THE GLIDDEN COMPANY
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P.O. Box 7037
Atlanta, GA 30357-0037

In re Application of	:	
VAS, Lazlo, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 09/907,764	:	REVIVE ABANDONED
Filing Date: 19 July 2001	:	APPLICATION UNDER
Attorney's Docket No.: P148 1010.1	:	37 CFR 1.137(b)
For: FLUSHING DEVICE FOR TOILETS	:	

This decision is issued in response to applicant's "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 28 June 2002 with respect to international application PCT/HU99/00080. Deposit Account No. 09-0528 will be charged the required $640 petition fee.

BACKGROUND

International application PCT/HU99/00080 became abandoned as to the United States under 35 U.S.C. 371(d) at midnight on 16 July 2001 (thirty months after the 15 January 1999 priority date; 15 July 2001 was a Sunday) for failure to pay the basic national fee.

On 19 July 2001, applicant filed the present application. The first sentence of the specification as filed states that the application is "a continuation of PCT/HU99/00080."

On 28 June 2002, applicants filed the petition considered herein. The petition seeks to revive PCT/HU99/00080 for the purpose of establishing continuity between the international application and the present application.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Regarding item (1), the "required reply," section 711.03(c) of the Manual of Patent Examining Procedures states that:

> [g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.

The filing of a continuation application under 35 U.S.C. 111(a) is acceptable as the required reply under 37 CFR 1.137(b). See MPEP § 711.03(c)(II)(A). However, the instant application is not a continuation of PCT/HU99/00080. While the first sentence of the specification as filed states that the application is "a continuation of PCT/HU99/00080," this statement does not set forth the international filing date of the international application. Pursuant to 37 CFR 1.78(a)(2)(i), a continuation of an international application must include both the international application number and the international filing date. The reference contained in the application as filed is therefore inadequate.[1]

On 28 June 2002, applicant filed an amendment that would, in part, expand the continuity reference in the specification to include both the international application number and the international filing date. However, because this amendment was submitted later than four months after the filing of the present application and sixteen moths after the filing date of the international application, such amendment must be accompanied by a grantable petition before it can be entered (see 37 CFR 1.78(3)). Applicants have not submitted such a petition.

Based on the above, the instant application is not considered a continuation of PCT/HU99/00080. Until continuity is properly claimed under 37 CFR 1.78, applicant has not filed the "required reply" necessary to satisfy item (1) of a grantable petition to revive the international application.

Item (2) is the petition fee required under 37 CFR 1.17(m). The petition for revival was accompanied by the petition fee. Item (2) is satisfied.

As for item (3), the petition for revival expressly states that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement satisfies item (3) as of the time the original petition was filed. However, any renewed petition filed in response to this decision would need to be accompanied by a new statement under 1.137(b)(3) which would cover the period from the filing of the original petition for revival to the filing of such renewed petition.

Regarding item (4), pursuant to the terms of 37 CFR 1.137(c), the terminal disclaimer is not required for this application.

---

[1] It is noted that applicant filed an application data sheet (ADS) with the present application. 37 CFR 1.78(a)(2)(iii) permits the continuity reference to be in the ADS; however, the ADS submitted here does not include any continuity reference. It does refer to the international application as a "Prior Foreign Application," but this reference doesn't include the required international application number (rather, it identifies the application by its publication number).

CONCLUSION

The petition for revival 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 For Revival Under 37 CFR 1.137(b)" and include the remaining materials required for a grantable petition, that is: (1) the materials required under 37 CFR 1.78 to effectively make the present application a continuation of PCT/HU99/00080; and (2) a new statement under 37 CFR 1.137(b)(3), as discussed above.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, 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.

Richard M. Ross
PCT Petitions Attorney
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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In re Application of:	:	
VAS, Lazlo, et al.	:	DECISION ON PETITIONS
U.S. Application No.: 09/907,764	:	UNDER 37 CFR 1.78(a)(3) AND
Filing Date: 19 July 2001	:	1.137(b)
Attorney's Docket No.: P148 1010.1	:	
For: FLUSHING DEVICE FOR TOILETS	:	

This decision is issued in response to the "Petition Under 37 CFR 1.78(a)(3)" and the "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 18 April 2005. Deposit Account No. 09-0528 will be charged the required petition fee for the petition under 37 CFR 1.78(a)(3) (the fee for the petition for revival was previously submitted).

BACKGROUND

The procedural background for the present application was set forth in the decision mailed by this Office on 01 April 2005. In that decision, applicants' petition for revival of international application PCT/HU99/00080 was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition under 37 CFR 1.137(b). Specifically, applicants had failed to submit the "required reply" in that the present U.S. application did not include a timely claim for benefit of the international application under 35 U.S.C. 365(c) and 120, in accordance with 37 CFR 1.78(a).

On 18 April 2005, applicants filed the petition under 37 CFR 1.78(a)(3) and the renewed petition under 37 CFR 1.137(b) considered herein.

DISCUSSION

A. Petition Under 37 CF 1.78(a)(3)

A grantable petition under 37 CFR 1.78(a)(3) must include: (1) the reference to the prior application required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2), unless previously submitted; (2) the required surcharge; 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.

Regarding item (1), applicants submitted the required reference on 22 January 2003 via an amendment to the specification. Item (1) is satisfied.[1]

Regarding item (2), the petition authorizes a charge to Deposit Account No. 09-0528 for the required surcharge. Item (2) is satisfied.

Regarding item (3), the petition includes the statement that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) to the date the claim was filed (January 17, 2003) to the filing of a grantable petition was unintentional." This statement satisfies item (3).

Applicants have satisfied the requirements for a grantable petition.

B. Renewed Petition For Revival Under 37 CFR 1.137(b)

The previous decision informed applicants that the "required reply" and a new statement under 37 CFR 1.137(b)(3) were required before the petition could be granted. As set forth above, based on applicants' concurrently filed petition under 37 CFR 1.78(a)(3), the delayed claim for the benefit of the international application has now been accepted in the present application. The renewed petition for revival also includes the required supplemental statement under 37 CFR 1.137(b)(3). International application PCT/HU99/00080 is being revived for purposes of continuity only, and since continuity has been established by this decision, PCT/HU99/00080 is again abandoned in favor of the present application.

CONCLUSION

Applicants' petition under 37 CFR 1.78(a)(3) for acceptance of the delayed claim of priority under 35 U.S.C. 120 and 365(c) to prior-filed international application number PCT/HU99/00080 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected filing receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed 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.

Applicants' petition for revival of the international application under 37 CFR 1.137(b) is **GRANTED**. International application PCT/HU99/00080 is hereby revived for purposes of continuity only, and since continuity has been established by this decision reviving the

[1] It is noted that the amendment was filed after the close of prosecution. Entry of the amendment falls within the jurisdiction of the examiner.

international application, the international application is again abandoned in favor of the present continuing application number 09/907,764.

This application is being returned to Group Art Unit 3751 for further processing in accordance with this decision.

Leonard Smith

for Boris Milef
PCT Legal Examiner
Office Of PCT Legal Administration

RMR/BM

Encl.: Filing Receipt

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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Technology Center 2100

Paper No.7

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of:	)	
Xinhong YUAN et al.	)	
Application No. 09/907,788	)	**DECISION ON REQUEST FOR**
Filed: July 17, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: DIGITAL RECEIPT FOR A	)	
TRANSACTION	)	

This is a decision on the Request To Withdraw from Representation filed January 29, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. **37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent**.

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

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Commissioner for Patents
United States Patent and Trademark Office
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1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of	:
Darren C. Ashby et al	:
Application No. 09/907,846	: DECISION GRANTING PETITION
Filed: July 18, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13914.597.1	:

This is a decision on the petition, filed December 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 February 24, 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 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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

Office of Counsel, Code OC4
Naval Surface Warfare Center
Indian Head Division
101 Strauss Avenue, Bldg. D-326
Indian Head, MD 20640-5035

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OFFICE OF PETITIONS

In re Application of Gerald McGrath Application No. 09/907,879 Filed: July 18, 2001 Attorney Docket No. 82,951	DECISION DISMISSING PETITION

This is a decision on the "Petition that Omitted Items were Deposited at USPTO with Application Papers under 37 CFR 1.17(h)," filed January 23, 2003. This petition is being treated as a Petition under § 1.53(e)(2), requesting that the "Notice of Omitted Items" be withdrawn.

Application papers in the above-identified application were filed on July 18, 2001. However, on October 2, 2001, the Initial Patent Examination Division mailed applicant a "Notice to File Corrected Application Papers." Applicant was thereby notified that the application papers had been accorded a filing date; however, the compact discs (containing the computer program listing appendix submitted pursuant to § 1.96) were not in compliance with 37 CFR 1.52(e). A new duplicate set of compact discs containing only ASCII files were required.

On October 30, 2001, applicant timely responded with two duplicate compact discs and a statement by patent attorney Mark Homer that the discs created October 29, 2001 contain no new subject matter relative to the original discs filed with the specification on July 18, 2001. However, by "Notice of Omitted Item(s) in a Nonprovisional Application," mailed January 13, 2003, applicant was advised that all or at least some of the same parts of each set of duplicate compact discs described in the specification are not readable.

In response, applicant timely filed the instant petition. In essence, petitioner asserts that the duplicate compact discs filed October 30, 2001 are readable, provided that they are opened using a text type software program. Thus, applicant assumes that the Notice mailed January 13, 2003, was a result of a USPTO computer attempting to automatically open the files at issue with incompatible software. On petition, petitioner submits two compact discs, which petitioner states each contain an exact copy of the file on the set of compact discs filed by applicant on October 30, 2001. The files, however, have been renamed using a .txt extension in order to ensure that the problem opening the files does not reoccur. The Office has been able to open all of the files on the compact discs filed January 23, 2003.

37 CFR 1.52(e)(3)(i) requires that:

> Each compact disc must conform to the International Standards Organization (ISO) 9660 standard, and the contents of each compact disc must be in compliance with the American Standard Code for Information Interchange (ASCII).

Petitioner's arguments have been considered, but not found persuasive to show that the compact discs as filed on October 30, 2001, were in compliance with § 1.52(e). Thus, the "Notice of Omitted Items" was correct in stating that the Office was unable to read all of the files and in requiring a new duplicate set of discs. The Notice was properly mailed and will not be withdrawn.

The petition is **DISMISSED**. The petition fee will not be refunded as the petition was not necessitated by any Office error.

Furthermore, as to content, the Office has not been able to confirm that the compact discs filed January 23, 2003 are an exact copy of the compact discs originally filed July 18, 2001 (and resubmitted October 30, 2001). Absent such a showing, the compact discs filed January 23, 2003 are not acceptable. An attempt was made to printout and compare the disc entitled Tg62 and the disc with the new .txt extension. The resulting printouts did not appear to contain the same data. (Copies of first 5 pages of each printout are enclosed). Accordingly, it is concluded that if the discs do, in fact, contain identical data, petitioner must provide information to the Office to facilitate a comparison resulting in a showing that the data is identical (e.g., for each compact disc the machine format (e.g., IBM-PC, Macintosh), the operating system compatibility (e.g., MS-DOS, MS-Windows, Macintosh, Unix), a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret the information on the compact disc.)

A **TWO (2) MONTH** time limit from the mail date of this decision is set for reply. Extensions of time under 37 CFR 1.136(a) are available. **As this additional reply is necessary to show that the reply to the Notice to File Corrected Application Papers is proper, failure to timely file a proper reply will result in abandonment of the application.**

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450[1]

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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[1] Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003).

Telephone inquiries concerning this matter may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Enclosure: Printout 1 and Printout 2, each five (5) pages.

DBG #7 Loc.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

McGrath, Gerald J.

Serial No. 09/907,879

Filed: June 18, 2001

For: CONTACT COMPARATOR AND METHOD OF OPERATION

OIPE JC139 JUN 0 4 2003 PATENT & TRADEMARK OFFICE

Group Art Unit: 2859

Examiner:

RESPONSE TO DECISION DISMISSING PETITION

This reply relates to the Decision to Dismiss Petition mailed May 21, 2003 in the above referenced case. For clarification, applicant submitted copies of compact discs containing one program file with the application papers filed in this application on July 18, 2001. A notice to file corrected application papers was mailed to applicant on October 2, 2001, indicating that said program file on said compact discs was not in an IBM-PC readable format and requested applicant to file new discs with the program being in said format. On October 30, 2001, applicant filed 2 compact discs, each containing a copy of said file that was merely written in IBM-PC format (but contained exactly the same program code as the originally submitted discs).

On January 13, 2003 applicant received a notice from the PTO indicating that the discs filed on October 30, 2001 were still not readable in IBM-PC computer format. At that time, applicants representative pulled the file copies made of each of the compact discs submitted on October 30, 2001 from the file for the above referenced case and tested the discs on an IBM-PC compatible computer. In merely double clicking to open the file on each disc, the computer automatically used a drawing program to attempt to open the files, resulting in miscellaneous symbols appearing on the screen. However, when applicant's representative opened a word

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processing programs (both Microsoft Word and Wordpad) and used each of these programs to open the files on the discs, no problem resulted.

Therefore, in response to the PTO notice mailed January 13, 2003, applicant's representative, assuming the PTO encountered the same problem initially described above, merely took each copy of the discs filed on October 30, 2001, copied the contents directly to the hard drive of a computer, renamed the files using a .txt extension (so they would open automatically with a word processing type program), burned these renamed files on two new compact discs, and filed them with applicant's Petition on January 23, 2003.

In the above mentioned Decision Dismissing Petition, the PTO indicates that the discs filed on October 30, 2001 do not contain an IBM-PC readable format program, and, for evidence provide a print out of five pages that merely contains symbols. However, applicant's representative has the original source discs for the copies filed on October 30, 2001, and, said discs are read using word processing programs as described above. These were also the discs used as the source to rename the files for the discs submitted on January 23, 2003. As evidence, applicant submits one of said discs, labeled as Thread Cage Software, Oct 2001 with this submission. Applicant also submits the first five pages of a print out opening the program on said disc using Microsoft Word. Applicant notes that said print out is identical to the print out provided by the PTO with the Decision Dismissing Petition discussed above.

Based upon the above information and the enclosed evidence, applicant requests that the PTO accept the discs filed on January 23, 2003 and proceed with examination of the above referenced application. Should further information be needed regarding this matter, feel free to call the undersigned at 301-744-6668.

Respectfully submitted,

Mark Homer, Reg. No. 41,848
Attorney for Applicant

OFFICE OF COUNSEL, CODE OC4
NAVAL SURFACE WARFARE CENTER
INDIAN HEAD DIVISION
101 STRAUSS AVE., BLDG. D-326
INDIAN HEAD, MD 20640-5035

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15!   RE-STORE "B:TG62.PRG"
17    ! (17/11/00)      **** NEW Dy METHODOLOGY ****
20    !                      (THREAD GAGE CALIBRATION)"
25!   PROGRAM ORIGINATOR:  G.J MCGRATH          (12/24/92)
27!   MOD 47                                    (10/16/00)
35    OPTION BASE 0
42    !
45    !
50    !                         admin variables                                file
55    COM Std$(2)[25],Ser$(2)[14],Sub$(2)[80],Dat1$[25],Form$[20]
60    COM Abbv$(2)[8],Tech$[30],Rept$[20],Inst$[25],Code$[15],Pl$[20]
65    COM Mfg$[40],Model$[20],Resub$[20],Specimen$[80]
70    COM Uut_id$[12],Hum,Tmprture,Pl,Polr
75    COM Grade,Date$[8],Uncert_sys
80    COM Esch$[6],Uut_units$[6],Function$[50],Prm_unts$[10],Sp$(20)[20]
85    COM Sub_prm_unt$[160],Unt$[20],User_units,User_units_$[30],Sw$[20]      !
7
90    !                    program structure variables
100   COM Out(4,10,0,2,1,4)
102   COM Out_(6,20,6,15)
110   COM Sp_tol(20,12,2,5),Sp_tol_(12),Sp_nx(20)
115   COM Sp(20,20),Sp_n(20),Sp_n_(20),Ssp_n(20)
116   !                         S0
117   COM S0,S0_,S0_object$[100],S_s0,E_s0,E_s0_,J_s0
118   COM S0_noun_unt$[60],S0_prm$[30],S0_prm_unt$[60],E_s0_trls
119   COM S0_prm_n(18),Sav_strt_s0,S0_co_prm$[20],S0_co_prm_unt$[40]
120   COM S0_aray(20),Parm_s0$[20],Rng_s0_unit$[90],Res_s0_unit$[90]
121   COM Rng_s0,Rng_s0_,Res_s0,Res_s0_
122   COM Rng_s0_unit_$[90],Res_s0_unit_$[90],Res_argu_s0$[50],Rng_argu_s0$[50]
123   COM S0_trl_aray(10),S0_trls,Exit_s0$[1],S0_trl_period
127   !                         S1
128   COM S1,S1_,S_s1,E_s1,E_s1_,J_s1
129   COM S1_noun_unt$[60],S1_prm$[30],S1_prm_unt$[60],E_s1_trls
130   COM S1_prm_n(18),Sav_strt_s1,S1_co_prm$[20],S1_co_prm_unt$[40]
131   COM S1_aray(20),Parm_s1$[20],S1_units_$[90],Res_s1_unit$[90]
133   COM Rng_s1,Rng_s1_,Res_s1,Res_s1_
134   COM S1_res_exmpl$[50],S1_rng_exmp$[50]
135   COM S1_trl_aray(10),S1_trls,Exit_s1$[1],S1_trl_period
160   !                         S2
165   COM S2,S2_,S_s2,E_s2,J_s2
170   COM S2_noun_unt$[360],S2_prm$[40],S2_prm_unt$[50],E_s2_trls
175   COM S2_prm_n(18),Sav_strt_s2(2),S2_co_prm$[20],S2_co_prm_unt$[40]
180   COM S2_aray(2,20),Parm_s2$[20],S2_units_$[90],Res_s2_unit$[90]
190   COM Rng_s2,Rng_s2_,Res_s2,Res_s2_,Res_s2e,Rng_s2e,Res_s2e_,Rng_s2e_
195   COM S2_res_exmpl$[50],S2_rng_exmp$[50]
200   COM S2_trl_aray(10),S2_trls,Exit_s2$[1]
205   !                         S3
210   COM S3,S3_,S_s3,E_s3,E_s3_,J_s3
215   COM S3_noun_unt$[360],S3_prm$[40],S3_prm_unt$[50],E_s3_trls
220   COM S3_prm_n(18),Sav_strt_s3(2),S3_co_prm$[20],S3_co_prm_unt$[40]
225   COM S3_aray(20),Parm_s3$[20],S3_units_$[90],Res_s3_unit$[90]
235   COM Rng_s3,Rng_s3_,Res_s3,Res_s3_,Rng_s3e,Res_s3e
240   COM S3_res_exmpl$[50],S3_rng_exmp$[50]
245   COM S3_trl_aray(10),S3_trls,Exit_s3$[1]
250   !                         S4
255   COM S4,S4_,S_s4(3),E_s4(3),E_s4_,J_s4(3)
260   COM S4_noun_unt$[50],Parm_s4$[30],S4_prm_unt$[50],E_s4_trls(2)
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265  COM S4_prm_n(18),Sav_strt_s4(2),S4_co_prm$[20],S4_co_prm_unt$[40]
270  COM S4_aray(20),S4_prm$(2)[20],S4_units_$[90],Res_s4_unit$(2)[90]
280  COM Rng_s4(2),Rng_s4_(2),Res_s4(2),Res_s4_(2),Rng_s4_n,Rng_s4_n_
285  COM S4_res_exmpl$(2)[50],S4_rng_exmp$(2)[50],Y_pk(2,20),Y_delt_ti(20)
290  COM S4_trl_aray(10),S4_trls,Exit_s4$[1],Ss4,Pd_in,Pd_in_
295  !                          S5
296  COM S5,S5_,S_s5(3),E_s5(3),E_s5_,J_s5(3)
301  COM S5_noun_unt$[50],Parm_s5$[30],S5_prm_unt$[50],E_s5_trls(2)
306  COM S5_prm_n(18),Sav_strt_s5(2),S5_co_prm$[20],S5_co_prm_unt$[50]
311  COM S5_aray(20),S5_prm$(2)[20],S5_units$[90]
321  COM Rng_s5(2),Rng_s5_(2),Res_s5(2),Res_s5_(2)
326  COM S5_res_exmpl$(2)[50],S5_rng_exmp$(2)[50]
331  COM S5_trl_aray(10),S5_trls,Exit_s5$[1]
340  !                          S6
342  COM S6,S6_,S_s6(3),E_s6(3),E_s6_,J_s6(3)
347  COM S6_noun_unt$[60],Parm_s6$[30],S6_prm_unt$[60],E_s6_trls(2)
352  COM S6_prm_n(18),Sav_strt_s6(2),S6_co_prm$[20],S6_co_prm_unt$[50]
357  COM S6_aray(20),S6_prm$(2)[20],S6_units$[90]
367  COM Rng_s6(2),Rng_s6_(2),Res_s6(2),Res_s6_(2)
372  COM S6_res_exmpl$(2)[50],S6_rng_exmp$(2)[50]
377  COM S6_trl_aray(10),S6_trls,Exit_s6$[1]
378  !                          operational variables
385  COM Loop_escape$[1],Home$[1],O,Move,X_fin
395  COM Compr1(5),Compr2(5),Compr,Chnl,Pitch,Freq
400  COM Scan,X_zero,Y_zero,Smp,Ref(12),Del_yx
405  COM Technqe(5),Tlr(5),Objectv,Sys_cal
410  COM Fast_track$[1],In,W_d,Cmpr,S,Trgt,Trg_mx,Prob_asp
415  COM Format_type(5,6),Tp_nest(5),Unit_adapt(5),Sample_rate,Message$[50]
420  COM Dm(2),Dm_$(1)[2],Dm$[2],Plot,Display,Ad,Res_last
425  COM Fast_trk,Cyc,Form,Intv,Y_ref,Y_rf,Y_rf_tlr
430  COM X_grp(5),Y_grp(5),N_grp(30),N9,Opts
435  COM X(20000),Y(20000),D_y(2,20000)
440  COM Z(10),Zj(10),Xo,Yo,Zo,Yo_cold
445  COM Yyy(20000),Xxx(20000),Y_del(50)
450  COM X__(500),Y__(500),Speed_opt,Self_cal$[1]
455  COM Y_(20000),X_(20000),Dmax_n,Phi_,Bbbb,Parameters
460  COM G,R,T,Scat_lim,Adj,Dva$(20)[15]
465  COM W,K,C,Sim,Slope
470  COM Clock3,Zero,Vzero,Device$[20]
475  COM Seq$[4],Seq,Dia,X_max,X_min,Y_max,Y_min,Len,Color_s1,Color_s2,Color_s4
480  COM Method,Ase,Cool_flg1,Cool_flg2
485  COM Cool_flg3,Cool_flg4,Ti,Ti_,Ptch_std
490  COM V1_flg,V2_flg,V3_flg,V4_flg,V5_flg
495  COM V6_flg,Dn_intv,Up_intv,Up,Cupl,Cupl_,Rng1,Rng2,Rng_ref,Rng,Rng_
496  COM Rng1_nex,Rng2_nex,To,T_end_data,T_end_anal
500  COM J_x,Press_mode,N7
505  !                    generic measurement variables
510  COM Inst_dev(18,2),Prm_nom(50)
515  COM Ll(10),Mm(10),Qq(41)
520  COM S3_prsnt(10),Strt(5)
525  !                          standards variables
530  COM Due(10),Dev_std(0,0,0,0,0),Std_n(10,1,1,1,1)
535  COM Std(10,1,1,1),Infile,F
540  COM Sn$[10],Sn_file$[200],Upd$[8],Rev$[1]
545  COM Stds$[60],Stds_date$[8]
550  COM Stdex_n(10,10),Stdex_cor(10,10),Stds_no
555  !                          history variables
```

```
560   COM Cus_sn$[10],Cus_sn_file$[500],Cus_dir$[100]
565   REAL Data(6,50,2)
570   !                          uut sub parameters
575   COM Dmax(6,20,2),Dmin(6,20,2),Davg(6,20,2)
580   COM D_p(6,20,2),Helix(6,20,2)
585   COM Flank(6,20,2),Taper(6,20,2),Root(6,20,2)
590   COM Lead(6,20,2),INTEGER Grp1(100)
595   COM INTEGER Grp2(100),INTEGER Grp3(100),INTEGER Grp4(100)
600   COM G1_n(100),G2_n(100)
605   COM G3_n(100),N__4(100)
610   COM Pitch_x_ref(20,2),X_l(6,20,2),Round(6,20,2),Mid_ang,Thr_mid
615   COM Radii(6,20,2),Taper_ref
620   COM Y_up(20),Y_dn(20),Ybw_xup(20)
625   COM Ybw_xdn(20),N_up(20),N_dn(20)
630   COM X_lst(20),N_lst(20),Dev_x(20)
635   !                           statistics & sig characterization
640   COM A_data(500),Y_data(500),Sty_dy(10,2,2,5),If_fmt
645   COM Sty_dx(10,2,2,5),Y_stp_avg,A_yo,B_yo,C_yo
650   !                           environment
655   COM Armed(10),B_w,Rel,Hi_t,Low_temp,T0,C_lim,C_ck
660   COM Tmp(3,1000),Temp(5,20),Auto_temp$[5],Dat$[20],Cool_mode
665   !                          system  variables
667   COM Sys_prm(7,3,1:2,1:30,3),Sys_prm$(7,7,7)[25],Noise
676   COM Ar_,Ar_yx,Y_delta,Ar_yxc(10)
677   COM J0,J1,J2,J3,J4,J5,J6,J7,J8,J9,J10
679   COM K0_,K1_,K2_,K3_,K4_,K5_,K6_,K7_,K8_,K9_,K10_
680   COM K11_,K12_,K13_,K14_,K15_,K16_,K17_,K18_,K19_,K20_
681   COM K21_,K22_,K23_,K24_,K25_,K26_,K27_,K28_,K29_,K30_
682   COM K0,K1,K2,K3,K4,K5,K6,K7,K8,K9,K10
683   COM K11,K12,K13,K14,K15,K16,K17,K18,K19,K20
684   COM K21,K22,K23,K24,K25,K26,K27,K28,K29,K30
685   !
686   COM Z0_,Z1_,Z2_,Z3_,Z4_,Z5_,Z6_,Z7_,Z8_,Z9_,Z10_
687   COM Z11_,Z12_,Z13_,Z14_,Z15_,Z16_,Z17_,Z18_,Z19_,Z20_
688   COM Z21_,Z22_,Z23_,Z24_,Z25_,Z26_,Z27_,Z28_,Z29_,Z30_
689   COM Z0,Z1,Z2,Z3,Z4,Z5,Z6,Z7,Z8,Z9,Z10
690   COM Z11,Z12,Z13,Z14,Z15,Z16,Z17,Z18,Z19,Z20
691   COM Z21,Z22,Z23,Z24,Z25,Z26,Z27,Z28,Z29,Z30
692   !                              mass storage
693   !                              mechanical
694   COM Spndl_dev(0:12),Std_dev(360),Runout(0:12,0:12),J_spndl,P_scan
695   COM J_std,Probe_num,X_$[49],Ax_rpm,Rot_rpm
700   COM Aa$[15],Bb$[15],Cc$[15],Ee$[15],Ff$[15]
705   COM Accept,Tic,Arc,V_ang
710   COM R_l,L_wh,R_m,M_wh,R_r
715   COM R_wh,R_z,R_std,Inpt,Metal
720   COM Lbs,Subsys,Prnt$[1]
725   COM R0,Start,Step,Swc,Drive
730   COM File$[10],Parameter$[100]
735   !                                sensors
740   COM Q,Wnum,Read,Range,L,Sensor$(3,3,5,1,2)[15]
745   COM Pulse(5),Dvm(5),System(5,5),E,Wire,Pl_type,Dvm$[100]
750   COM S_trgt(10),Strtx(10),Rej,Feat$[5]
755   COM Strty(10),Delx(10),Dely(10)
760   !                           control devices
765   COM Mode$[6],V$[6],Acel$[6],Disp,Dir$[3],Control$(3,3,5,1,2)[15]
770   COM Trig$[3],Mot$[2],Sc,Test_mode,Rock_motr
```

```
772   COM E_dir$[6],E_dir_$[3],R_dir$[6],R_dir_$[3]          ! motors
773   COM Vy$[7],Ax$[7],Ay$[7],Dx$[7],Dy$[7],Az$[7],Dz$[7]
775   COM S_cum(10),Angl(10),Sampl(10)
780   COM Tolr(-5:5,10),Axis$(4)[15],Op1,Op2
785   COM Mot_mode,Vector,Series,Ang
790   COM Dn_win,Up_win,Delxc,Freq$[8],Auto_y
792   COM Vx$[7],Vxx$[7],Vx_lst$[7],Vz$[7]
795   !                              misc variables
800   COM All(50),Phi(20000),All$[200],T_
805   COM Cc(50),Report,By,Size,Sim_(40),Unc
815   REAL V_
816   DIM Yo_wrmup(2000),Outpt_$[80]
818   DIM Exmp1$[44],Exmp2$[61]
826   !
836   !
931  !
932  CALL Warning
934  OUTPUT KBD;CHR$(255)&CHR$(75);              ! clear screen
935  CALL Draw_setup0a(0,Specimen$)
936! GOSUB Viable
939  Sim_(4)=1                                   ! temp sens down
940  Sim=0
941  X_fin=0
943  PRINT USING "/,K,K,K,K,K";"INPUT ? (",CHR$(131),"REAL CAL = 0",CHR$(128),"
SIMULATED MODES = 1   STATISTICAL TOOLS = 2"
944  INPUT "",Sim
945  IF Sim=1 THEN GOSUB Simulation
946  IF Sim=2 THEN
947     Recourse=21
948     GOTO 2279
949  END IF
951  Dat$=DATE$(TIMEDATE)
966  !
968  !                              administrative
969  Id$="N"
970  INPUT "WANT TO INPUT DATA SHEET INFORMATION ? (y/N)",Id$
971  IF UPC$(Id$)="Y" THEN GOSUB Admin
973  !
980  !                              test configuration
981  !                                cool zero
983  GOSUB Setup_init
996  GOSUB Sys_zero
999!!GOSUB X_scan
1000 S4=0
1002 !                                standby mode
1003 IF Strt_sgma>30 THEN GOTO Main_menu
1004 INPUT "GOTO STANDBY (Y/n)? ",Stndby$
1005 IF UPC$(Stndby$)="Y" THEN
1006    Exer_auto=1
1007    GOTO Main_menu
1008 END IF
1009 !
1010 !
1012 !
1013 Testsetup_:!
1014 GOSUB Setup_init
1015 GOSUB Testsetup
```

```
1016 !
1018 !
1019 !
1020 Run:!                          TI OR SYS CALIBRATION
1021 GOSUB S0_init
1022 REPEAT
1024 S0=S0+1                                                  ! # of ti
1025 Restart_s1:!
1026   GOSUB S1_init
1035   REPEAT
1045   S1=S1+J_s1
1055   GOSUB S1_reduce
1060   GOSUB Conf_s1
1070      GOSUB S2_init
1075      REPEAT
1085      S2=S2+J_s2
1100      GOSUB S2_reduce
1105      GOSUB Conf_s2
1115           GOSUB S3_init
1120           REPEAT
1130           S3=S3+J_s3
1135           GOSUB S3_reduce
1150           GOSUB Conf_s3
1165                GOSUB S4_init
1167                REPEAT
1170                S4=S4+J_s4(Ss4)
1175                GOSUB S4_reduce
1190                GOSUB Conf_s4
1200                     GOSUB S5_init
1205                     REPEAT
1215                     S5=S5+J_s5(S4)
1220  !                  GOSUB S5_reduce
1235                     GOSUB Conf_s5
1245                         GOSUB S6_init
1250                         REPEAT
1260                           S6=S6+J_s6(S4)
1265  !                        GOSUB S6_reduce
1275  !                        GOSUB Conf_s6
1285                           GOSUB S6_listen
1290                           GOSUB S6_analysis
1315                         UNTIL S6=E_s6(S4)
1320                         GOSUB S6_talk
1350                     GOSUB S5_analysis
1375                     UNTIL S5=E_s5(S4)
1400                GOSUB S4_analysis
1425                UNTIL S4=E_s4(Ss4)
1455           GOSUB S3_analysis
1480           IF Series=2 THEN                          !  cylinder edge
1485              IF Ang<-60 AND Clock3>100 THEN
1490                 PRINT "*** END OF CYLINDER ***"
1495                 BEEP 5000,3
1500                 S3=E_s3                              ! last reading
1505                 Ang=0
1510              END IF
1515           END IF
1520           UNTIL S3=E_s3
1555      GOSUB S2_analysis
```

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Paper No. 8

Office of Counsel, Code OC4
Naval Surface Warfare Center
Indian Head Division
101 Strauss Avenue, Bldg. D-326
Indian Head, MD 20640-5035

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In re Application of :
Gerald McGrath :
Application No. 09/907,879 : DECISION ON PETITION
Filed: July 18, 2001 :
Attorney Docket No. 82,951 :

This is a decision on the "Response to Decision Dismissing Petition," filed June 4, 2003. This paper is being treated as a renewed petition under § 1.53(e)(2).

Application papers in the above-identified application were filed on July 18, 2001. However, by "Notice to File Corrected Application Papers" mailed October 2, 2001, applicant was advised that the compact discs (containing the computer program listing appendix submitted pursuant to § 1.96) were not in compliance with 37 CFR 1.52(e). A new duplicate set of compact discs containing only ASCII files were required. On October 30, 2001, applicant filed two duplicate compact discs. However, by "Notice of Omitted Item(s) in a Nonprovisional Application" mailed January 13, 2003, applicant was advised that all or at least some of the same parts of each set of duplicate compact discs described in the specification are not readable.

In response, applicant timely filed the initial petition. The Office was able to open all of the files on the compact discs filed January 23, 2003. However, the petition was dismissed because petitioner's evidence was not persuasive that the compacts discs as filed on October 30, 2001, were in compliance with § 1.52(e). Furthermore, the compact discs filed January 23, 2003 were found not to be acceptable because on petition the Office could not confirm that the discs were an exact copy of the compact discs originally filed July 18, 2001. The decision requesting additional information to facilitate review of the discs filed January 23, 2003 (Decision mailed May 21, 2003).

On instant renewed petition, petitioner does not dispute the conclusion on decision on petition mailed May 21, 2003, that the discs filed October 30, 2001, were not in compliance with § 1.52(e). Rather, petitioner sets forth, as requested, information to facilitate review clarification of the data on the discs. In addition, petitioner submits a duplicate copy of the compact discs as originally filed. Petitioner requests that the discs filed on January 23, 2003 be accepted and that the Office proceed with examination.

Accordingly, to the extent that this decision requests reconsideration of the previous decision dismissing the petition, the previous decision is affirmed. The petition is **DISMISSED**.

However, as to the issue of the contents of the compact discs, petitioner's additional information is found persuasive. The issue of whether the discs filed January 23, 2003, contain new subject matter relative to the original discs filed with the specification on July 18, 2001, is being reserved for consideration by the examiner.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing. (It is noted that petitioner states that the discs filed January 23, 2003 and June 4, 2003 are identical).

Telephone inquiries concerning this matter may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

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P.O. BOX 1967
MIDLAND, MI 48674

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In re Application of	:	
Robert Charles Job	:	
Application No. 09/907,887	:	ON PETITION
Filed: July 17, 2004	:	
Attorney Docket No. UC17952A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on July 26, 2004, to revive the above-identified application.

The petition is **dismissed**.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 12, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all

future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Courtesy copy of Advisory Action

cc: Douglas W. Miller
510 Bering Drive, Suite 300
Houston, TX 77057

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In re Application of Matthew E. Hansen Application No. 09/907,902 Filed: July 19, 2001 Attorney Docket No. 1857.0300001/JTH/TAD	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed July 28, 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 September 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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WASHINGTON DC 20001-4413

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In re Patent No. 6,994,854	:	
Betsou et al.	:	
Issue Date: 7 February, 2006	:	
Application No. 09/907,951	:	
Filed: 19 July, 2001	:	DECISION ON REQUEST
For: PROTECTIVE EPITOPES OF	:	FOR RECONSIDERATION OF
ADENYL CYCLASE-HAEMOLYSIN (AC-	:	PATENT TERM ADJUSTMENT
HYL), THEIR APPLICATION TO THE	:	
TREATMENT OR TO THE PREVENTION	:	
OF BORDETELLA INFECTIONS	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (UNDER 37 C.F.R. § 1.705(d)" filed 6 April, 2006. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 523 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Patentee states in accordance with 37 C.F.R. §§ 1.705(b)(2)(iii) that this patent is not subject to a Terminal Disclaimer.

On 7 February, 2006, the above-identified application matured into U.S. Patent No. 6,994,854. The instant request for reconsideration filed 6 April, 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 403 days. This revised determination was calculated as follows: The initial determination of PTA of 396 days was increased by 88 days and 39 days for Office delay in issuing the patent, but reduced by 120 days for then applicants filing of a "supplemental paper(s)—oath

or declaration" on 30 September, 2005, filed after the mailing of a notice of allowance on 12 April, 2005.

Patentee contends that there should have been no reduction for the filing, after the mailing of the notice of allowance, of the declaration filed on 30 September, 2005. Patentee contends that this paper is an example of submissions after a Notice of Allowance that are not considered a failure to engage in reasonable efforts to conclude processing or examination of an application, in accordance with the "Clarification of 37 C.F.R. §1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance Has Been Mailed," 1247 OG 111 (June 27, 2001).

Patentees' contention is not well taken. The OG Notice states that:

> Accordingly, 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).

Patentee states that the papers filed on 30 September, 2005, was filed in response to the Office's request for a supplemental oath or declaration made by telephone on 12 August, 2005, subsequent to the mailing of the Notice of Allowance. Patentee further asserts that since applicants' were not previously notified that a supplemental oath or declaration was required, the filing of the declaration on 30 September, 2005, should not be considered a failure to engage in reasonable efforts to conclude processing or examination of the application. Further, a review of the official file reveals a printer rush query requesting the

supplemental declaration listing the first name of the first inventor.

A supplemental oath or declaration is not among those examples. Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). In this regard, although applicant states that a check for $200.00 was included with the petition, no check for $200.00 was located among the papers received with the present petition. Nevertheless, as patentee authorizes the petition fee to be charged to counsel's deposit account, the $200.00 fee will be charged to counsel's deposit account. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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In re Patent No. 6,994,854	:	
Betsou et al.	:	
Issue Date: 7 February, 2006	:	
Application No. 09/907,951	:	FINAL AGENCY DECISION
Filed: 19 July, 2001	:	ON
For: PROTECTIVE EPITOPES OF	:	REQUEST FOR RECONSIDERATION
ADENYL CYCLASE-HAEMOLYSIN (AC-	:	OF
HYL), THEIR APPLICATION TO THE	:	DECISION ON APPLICATION
TREATMENT OR TO THE PREVENTION	:	FOR
OF BORDETELLA INFECTIONS	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed on 28 July, 2006, requesting reconsideration of the decision of 30 May, 2006, and requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) in the decision of 30 May, 2006, be changed from 403 days to 523 days.

The request for reconsideration of the decision of 30 May, 2006, is granted to the extent that the decision of 30 May, 2006, has been reconsidered; however, the request for reconsideration is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 403 days indicated in the decision of 30 May, 2006. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 and for purposes of seeking judicial review. *See* MPEP 1002.02.

Patentee states in accordance with 37 C.F.R. §§ 1.705(b)(2)(iii) that this patent is not subject to a Terminal Disclaimer.

On 7 February, 2006, the above-identified application matured into U.S. Patent No. 6,994,854. A request for reconsideration filed 6 April, 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 403 days. This revised

determination was calculated as follows: The initial determination of PTA of 396 days was increased by 88 days and 39 days for Office delay in issuing the patent, but reduced by 120 days for then applicants filing of a "supplemental paper(s)—oath or declaration" on 30 September, 2005, filed after the mailing of a notice of allowance on 12 April, 2005. The Request for Reconsideration of Patent Term Adjustment filed on 6 April, 2006, was dismissed on 30 May, 2006.

Patentee again contends that there should have been no reduction for the filing, after the mailing of the notice of allowance, of the declaration filed on 30 September, 2005. Patentee contends that this paper is an example of submissions after a Notice of Allowance that are not considered a failure to engage in reasonable efforts to conclude processing or examination of an application, in accordance with the "Clarification of 37 C.F.R. §1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance Has Been Mailed," 1247 OG 111 (June 27, 2001).

Patentee's contention is not well taken.

MPEP 2732 states, in pertinent part:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process. Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) 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 or a request to

> correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations. 37 CFR 1.704(c)(10) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under 37 CFR 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under 37 CFR 1.312 or such other paper; or (2) four months. The phrase "lesser of …or [f]our months" is to provide a four-month cap for a reduction under 37 CFR 1.704(c)(10) if the Office takes longer than four months to issue an Office action or notice in response to the amendment under 37 CFR 1.312 or other paper.

The OG Notice states that:

> Accordingly, 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).

Patentee states that the papers filed on 30 September, 2005, were filed in response to the Office's request for a supplemental oath or declaration made by telephone on 12 August, 2005, subsequent to the mailing of the Notice of Allowance. Patentee further asserts that since applicants were not previously notified that a supplemental oath or declaration was required, the filing of the declaration on 30 September, 2005, should not be considered a failure to engage in reasonable efforts to conclude processing or examination of the application. Further, a review of the official file reveals a printer rush query requesting the supplemental declaration listing the first name of the first inventor.

A supplemental oath or declaration is not among the examples noted above. Other than those papers identified in the OG Notice and the MPEP, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office.

Patentee asserts, in the instant request for reconsideration, that 37 CFR 1.704(c)(10) does not apply to the situation at hand because the supplemental declaration was not filed in anticipation of receiving a response from the Office, and that no response from the Office to the supplemental declaration was received. Furthermore, patentee asserts that the submission of the supplemental declaration of 30 September, 2005, should not be considered failure to engage in reasonable efforts to conclude processing or examination of the application because patentee did not delay response to the Notice to File Missing Parts; because the substitute declaration was requested by telephone call rather than a Notice, and because the Office could have earlier notified patentee that a supplemental oath or declaration was required.

Patentee's arguments have been considered, but are not persuasive. At the outset, 37 CFR 1.704(c)(10) does not distinguish between papers filed in anticipation of receipt of a response from the Office and those papers not filed in anticipation of a response from the Office. Rather, any papers filed after the mailing of the Notice of Allowance which are not specifically enumerated as papers 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. A supplemental declaration is not among the examples provided, and

therefore is not within the exception noted in the OG Notice and the MPEP quoted above.

Furthermore, whether or not the supplemental declaration was requested by telephone or by a written Notice to applicants is not relevant to the inquiry under 37 CFR 1.704(c)(10). While the Office occasionally requests the submission of papers by telephone to expedite the processing of applications, the submission of supplemental papers in response to a telephone call, as opposed to a written Notice from the Office, does not in itself, excuse a failure to engage in reasonable efforts to conclude processing or examination of the application within the meaning of 37 CFR 1.704(c)(10).

Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office. Filing of a declaration after allowance will be treated as a failure to engage in reasonable efforts to conclude prosecution.

Furthermore, since the first named inventor's given name is printed on the front page of the patent, the failure of patentee to timely provide the first inventor's given name would have substantially delayed the Office's ability to process the application into a patent. Further to this point, the responsibility for the error which lead to the requirement for the supplemental declaration is that of the applicant rather than the Office: if applicant had more timely provided the first inventor's given name (i.e., at the time the original declaration was filed), there would not have been a need for a supplemental declaration to be filed. In summary, applicant has provided no persuasive argument supporting a conclusion that the instant situation should be considered to be within the exception noted in the OG Notice and the MPEP quoted above.

Lastly, patentee's ultimate contention, that any lack of diligence on the part of the patentee was offset by the Office's not notifying patentee at an earlier time that the declaration was defective, is simply not persuasive: it is applicant's responsibility to file timely and complete papers in the Office when those papers are required. *See In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985); *see also In re Colombo, Inc.*, 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify

applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction). It is further noted that 37 CFR 1.63(a)(2) states that an oath or declaration must identify each inventor by full name, including the family name and at least one given name without abbreviation together with any other given name or initial. As such, the full name of each inventor is required on filing. Had patentee provided the proper information on filing, the situation described above would not have occurred.

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term is **DENIED**.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Charles A. Pearson
Director, 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. 18

Arthur W. Fisher, III
5553 West Waters Avenue
Suite 316
Tampa, FL 33634

COPY MAILED
JUL 0 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Douglas A. Holmberg	:	
Application No. 09/907,998	:	ON PETITION
Filed: July 18, 2001	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(a), filed June 14, 2004, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

A "Notice of Non-Compliant Amendment" (Notice) was mailed to applicant on September 11, 2003, which set a one (1) month time period within which to submit a reply. Since no extensions of time were obtained and no reply was received, the application became abandoned on December 12, 2003.

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay. Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner has not provided a showing or any explanation that the delay in filing a reply to the outstanding office action was unavoidable. In fact, petitioner does not state in the petition the cause of the unavoidable delay, nor has petitioner provided any evidence to support such a statement. While it is mentioned in the Examiner's Interview Summary that petitioner asserts the Notice was never received, no evidence has been supplied to support such an assertion. Further, petitioner does not state in the petition that the Notice was never received. A proper showing and evidence to corroborate such must be submitted in order to establish that the delay was unavoidable.

It is uncertain why petitioner believes that he would have to re-file the application if the instant petition is not accepted. An option to file a petition under 37 CFR 1.137(b) is also available. In fact, petitioner is strongly urged to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $665 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

U. S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop PETITIONS
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. None

KAREN J. MESSICK, ESQ.
KOS PHARMACEUTICALS, INC
1001 BRICKELL BAY DRIVE, 25 TH FLOOR
MIAMI FL 33131

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of
Akwete L. Adjei et al.
Application No. 09/908,017
Filed: July 18, 2001
Attorney Docket No. 540541-2035
Title: SALT/ION PAIR MEDICINAL AEROSOL FORMULATION

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed April 18, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed April 16, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on July 17, 2004. A notice of abandonment was mailed December 14, 2004.

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 the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant 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 the instant petition.

With the instant petition, petitioner has filed the petition fee, a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee, an amendment, and has

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

made a statement which is being construed as the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The concurrently submitted amendment shall serve as the required submission.

As such, the petition is **GRANTED**.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

KOS PHARMACEUTICALS, INC.
1 CEDAR BROOK DRIVE
CRANBURY NJ 08512-3618

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Akwete L. Adjei et al.	:	
Application No. 09/908,017	:	DECISION GRANTING
Filed: July 18, 2001	:	PETITION UNDER 37 C.F.R.
Title: SALT/ION PAIR MEDICINAL	:	§1.137(b)
AEROSOL FORMULATION	:	

This is a decision on the petition filed February 28, 2007, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 29, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 30, 2005. A notice of abandonment was mailed on March 28, 2006.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has filed the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

The petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

10-2-07

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,216,111 B2
Inventor(s) : Shinichi Horii, et. al.
Issued : May 8, 2007
For: ACCOUNTING APPARATUS, ACCOUNTING METHOD, AND COMPUTER-READABLE PROGRAM STORAGE MEDIUM FOR STORING PROGRAM HAVING ACCOUNTING FUNCTION

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error in the drawings, sheet 10, Fig. 10, in box ST5, is printed in accordance with the record.

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

Eva James
For Cecelia B. Newman
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext. 124 or (703) 305-8309

William S. Frommer
Frommer Lawrence & Haug, LLP
745 5th Avenue, New York, NY 10151

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-23-2005

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction on Patent No.: 6,821,341

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:
The proposed change would effect the effective filing date of the application and thus require reexamination.

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

SPE

1792
Art Unit

PTOL-306 (REV. 7/03)
U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

PAPER NO. 12

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SEP 1 0 2003

OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

In re Application of
Dachuan Yang, et al.
Application No. 09/908,070
Filed: July 18, 2001
Attorney Docket No. S63.2-9826-US01

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 5, 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 August 14, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 1762 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to th application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 9

Jon Cox
3207 Via Cajita
Carlsbad, CA 92008

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Jon Christopher Cox :
Application No. 09/908,084 : ON PETITION
Filed: July 18, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on December 29, 2004, to revive the above-identified application.

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.

Since there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3634, 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

cc: Harry M. Weiss
4204 N. Brown Avenue
Scottsdale, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 5

Kenneth F. Kozik
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

MAILED

JUL 1 7 2003

Technology Center 2100

In re Application of:	)	
Sanjai Singh	)	
Application No. 09/908,085	)	**DECISION ON REQUEST FOR**
Filed: July 18, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: GRAPHICAL SUBCLASSING	)	

This is a decision on the Request To Withdraw from Representation filed June 12, 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 12, 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

JM 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 26, 2007

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No./09/908095 patent no.7103567

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: _____

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE **Art Unit** 3625

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAIL

Paper No. 6

JUN 2 5 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of: Ramamurthy Mani, et al.	)	
Application No. 09/908,096	)	
Filed: July 18, 2001	)	**DECISION ON REQUEST FOR**
For: IMPLICIT FRAME-BASED	)	**WITHDRAWAL AS ATTORNEY**
PROCESSING FOR BLOCK-	)	
DIAGRAM SIMULATION	)	

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

SPE: J. Miller

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/06

TO SPE OF : ART UNIT 2623

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/908,134 Patent No.: 7038238

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: Changes made in accordance with filed specification and version of claims allowed

SPE

2623
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

THE WHITAKER CORPORATION
4550 NEW LINDEN HILL ROAD
SUITE 140
WILMINGTON, DE 19808

COPY MAILED

OCT 15 2004

OFFICE OF PETITIONS

In re Application of	:	
Michael Gurreri	:	
Application No. 09/908,140	:	ON PETITION
Filed: July 17, 2001	:	
Atty Docket No. 17584	:	

This is a decision on the petition, filed September 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2839 for further processing of the request for continued examination under 37 CFR 1.114 filed September 22, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No.

STERNE, KESSLER, GOLDSTEIN &
FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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APR 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Tormasov et al.	:	DECISION ON
Application No. 09/908,252	:	PETITION
Filed: July 18, 2001	:	
Atty Docket No. 2230.0370001	:	
	:	

This is a decision on the "Petition under 37 C.F.R. § 1.53(e)(2) To Accord A Filing Date To A Nonprovisional Application" filed September 20, 2004, requesting that based on an incorporation by reference statement the above-identified application be accorded a filing date of July 18, 2001. This petition is properly treated under §1.182.

Application papers in the above-identified application were filed on July 18, 2001. However, on April 24, 2003 and again on July 20, 2004[1], the Initial Patent Examination Division 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, petitioner filed the instant petition (and petition fee). Petitioner does not dispute that FIG. 1 discussed at pages 7-9 of the specification was missing from the application on filing. Rather, petitioner requests entry of the FIG.1 with the original filing date of July 18, 2001, based on the figure not containing new matter and being substantially identical to FIG. 1 in provisional application 60/277,252, the entirety of which is incorporated by reference. Petitioner submits for entry a copy of the substantially identical FIG. 1 (Petitioner

[1] In the intervening time between Notices, the attorneys of record changed.

states that it differs, in that, it includes reference numbers that were not present in FIG. 1 in the provisional application. Petitioner argues that the reference numbers are described at pages 7-9 of the specification), along with a copy of the provisional application.

A review of the application-as-filed reveals that it contained an incorporation by reference statement. Furthermore, 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.

Petitioner has filed the instant petition and fee, which are being treated as the required petition under § 1.182 and the required fee. The petition is grantable. However, petitioner neither submitted a preliminary amendment requesting entry of the one sheet of drawings containing FIG. 1 from the provisional application, or more importantly, a copy of the drawing sheet containing FIG. 1 that was incorporated by reference. On petition to grant a filing date pursuant to § 1.182 based on an incorporation by reference statement, petitioner must submit a copy of, and request entry of, the omitted material as contained in the prior application.

The question of whether applicant may thereafter amend the application to include the substantially identical copy of FIG. 1 is one to be presented to the examiner for consideration after a filing date has been accorded.

Accordingly, the petition under § 1.182 is **DISMISSED** without prejudice to reconsideration upon the filing of a "Renewed Petition under § 1.182" with an amendment submitting the necessary omitted material and a copy of the drawings from prior provisional application No. 60/277,292. (Of course, petitioner is not precluded from, in the alternative, providing a postcard pursuant to MPEP 503 to establish receipt in the Office of the drawings, along with a copy of the drawings as originally filed).

Any request for reconsideration must be filed within **TWO (2) MONTHS** from the mailing date of this decision. This period is not extendable under 37 CFR §1.136(a). See 37 CFR § 1.181(f).

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: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20005

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JUN 02 2005

OFFICE OF PETITIONS

In re Application of	:	
Tormasov et al.	:	DECISION ON
Application No. 09/908,252	:	PETITION
Filed: July 18, 2001	:	
Atty Docket No. 2230.0370001	:	
	:	

This is a decision on the "Renewed Petition under 37 C.F.R. § 1.53(e)(2) To Accord A Filing Date To A Nonprovisional Application" filed April 29, 2005, requesting that based on an incorporation by reference statement the above-identified application be accorded a filing date of July 18, 2001. This petition is properly treated under §1.182.

Application papers in the above-identified application were filed on July 18, 2001. However, on April 24, 2003 and again on July 20, 2004[1], the Initial Patent Examination Division 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. By decision mailed April 18, 2005, the petition was dismissed for failure to submit a preliminary amendment requesting entry of the one sheet of drawings containing FIG. 1 from the provisional application, and more importantly, for failure to provide a copy of the drawing sheet containing FIG. 1 as it was contained in the prior application.

On instant renewed petition, petitioner has submitted a true copy of FIG. 1 from the prior provisional application, along with a preliminary amendment requesting its entry.

[1] In the intervening time between Notices, the attorneys of record changed.

In view thereof, the petition under § 1.182 is now **GRANTED**. The second preliminary amendment will be entered by the examiner in due course. The third preliminary amendment will be considered by the examiner in due course.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for according of a filing date of July 18, 2001, using the application papers received in the Office on that date and the drawing submitted on renewed petition filed April 29, 2005, and for indication in the records of the Office that the application contains one (1) sheet of drawings.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

Wheeler Law Offices, P.C.
22 Washington Trust Building
Washington, PA 15301

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DEC 12 2002

OFFICE OF DIRECTOR
GROUP

In re Application of
Wallace H. Wells, Jr. et al.
Application No. 09/908,286
Filed: July 18, 2001
For: POSABLE STRING OF LIGHTS

DECISION ON REQUEST TO
WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney or agent of record pursuant to 37 C.F.R. § 1.36 and 37 C.F.R. § 10.40 filed on April 5, 2002.

The request is APPROVED for the withdrawal of all the attorneys of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

The application currently has no attorney of record.

As requested, all future communications from the Office will be directed to John D. Gugliotta, Esq. at the address indicated below unless otherwise notified by applicant.

The application is being forwarded to the examiner of record for the preparation of an Office action.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: John D. Gugliotta, Esq.
Montgomery and Associates
202 Washington Trust Building
Washington, PA 15301

cc: Wallace H. Wells, Jr.
1807 Messiah Road
Welch, MN 55089

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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. 081604

JOHN D. GUGLIOTTA
202 DELAWARE BUILDING
137 SOUTH MAIN STREET
AKRON, OH 44308

OCT - 2 2004

In re Application of:	:	
WALLACE H. WELLS, JR.	:	
Serial No.: 09/908,286	:	DECISION ON REQUEST TO WITHDRAW
Filed: July 18, 2001	:	FROM RECORD
Attorney Docket No.: **1198**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed December 18, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by John D. Gugliotta.

The request is **APPROVED**.

It is noted that the application is now abandoned. There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Wallace H. Wells, Jr., at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: WALLACE H. WELLS, JR.
1807 MESSIAH ROAD
WELCH, MN 55089

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United States Patent and Trademark Office
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Alexandria, VA 22313-145
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AUG 22 2005

STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 Walnut Street, Suite 2800
Kansas City, MO 64106-2150

In re application of
Daniel R. Musso :
Application No. 09/908,290 :
Filed: July 17, 2001 :
For: METHOD AND SYSTEM FOR MANAGING AND: CLOSING A REAL ESTATE TRANSACTION

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on July 27, 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** as **MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in this application is not approved as moot because a revocation of power of attorney to FOLEY & LARDNER LLP was submitted to the United States Patent and Trademark Office on March 05, 2005. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed March 20, 2005.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 08/05/05

cc:
FOLEY & LARDNER LLP
11250 El Camino Real, Suite 200
P.O. BOX 80278
San Diego, CA 92138-0278
Tel: (858) 847-6700

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

Robert B. Mandell
69 Sullivan Drive
Morage, CA 94556-1209

SEP 16 2002

In re Application of	:	
Robert B. Mandell	:	
Application No. 09/908,296	:	DECISION ON PETITION
Filed: July 17, 2001	:	TO MAKE SPECIAL
For: Bifocal Contact Lens with Secondary	:	
Prism	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 24, 2002, to make the above-identified application special. No fee is required for this petition.

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.

The petition is GRANTED.

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 affidavit or declaration, that the applicant is sixty five (65) years of age or more.

The petition includes applicant's affidavit showing that applicant is sixty five (65) years of age or more.

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, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
TC 2800 - Semiconductor, Electrical and
Optical Systems and Components

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)
6708978	2004-03-23	09908339	2001-07-18	7041.P32

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	/philipjlee/	Date (YYYY-MM-DD)	2008-04-21
Name	Philip J. Lee	Registration Number	32869

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6708978
Issue Date: March 23,2004
Application No. 09908339
Filed: July 18,2001
Attorney Docket No. 7041.P32

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed April 21,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 21,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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Paper No. 18

JOHN D. GUGLIOTTA
MONTGOMERY AND ASSOCIATES
202 WASHINGTON TRUST BUILDING
WASHINGTON, PA 15301

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JAN 30 2004

OFFICE OF PETITIONS

In re Application of
Jack R. Rowe, et al.
Application No. 09/908,350
Filed: July 18, 2001
Attorney Docket No. 01-108

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 submit the issue fee and formal drawings in a timely manner in reply to the Notice of Allowance/Notice of Allowability mailed March 19, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 20, 2003.

There is no indication that the petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division, Box Issue Fee, within **ONE MONTH** from the mail date of this decision.

Petitioner is advised that as of October 1, 2003, the issue fee payment increased to $665. Petitioner remitted $650 for the issue fee; therefore, the fee deficiency of $15 will be charged to petitioner deposit account 07-2380 as authorized.

The application file is being forwarded to the Publishing Division for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Issue Fee Transmittal (PTOL-85b)

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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APR 14 2005

Applied Materials, Inc.
2881 Scott Blvd. M/S 2061
Santa Clara, CA 95050

In re Application of
Robert B. Lowrance et al
Application Number 09/908,360
For: MULTIPLE INDEPENDENT ROBOT ASSEMBLY AND APPARATUS FOR PROCESSING AND TRANSFERRING SEMICONDUCTOR WAFERS

PETITION UNDER 37 CFR 1.181 REQUESTING SUPERVISORY REVIEW OF THE FINAL REJECTION

This is in response to applicant's Petition 37 CFR 1.181 filed on August 13, 2004 to review the finality of the action mailed April 8, 2004.

The petition is **DISMISSED AS MOOT**.

This petition is deemed moot in view of the Request for Continued Examination (RCE) filed on October 8, 2004. The issues raised in the petition will not be treated in this decision.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Eileen D. Lillis at (571) 272-6928.

Robert Oberleitner, Director
Patent Technology Center 3600
(571) 272-5350

edl/

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CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Bruce Balentine	: DECISION ON REQUEST FOR
Patent Number	: 7573986	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/908,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **235** 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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#11 Section 9

I hereby certify that this correspondence is being deposited with the United States Postal Services on the date set forth below as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

Date of Signature and Deposit: 11/1/01

Jan C. Bakus
Attorney of Record

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Kirk J. Hogan, et al.
Serial No.:	09/908,410
Filed:	July 18, 2001
For:	ASSAY FOR PROPENSITY FOR CANINE MALIGNANT HYPERTHERMIA
Group Art Unit:	1645
Examiner:	--

Commissioner For Patents
Washington, D.C. 20231

TRANSMITTAL LETTER

Dear Sir:

In the matter of the above-identified case and in response to the September 17, 2001 Notice to File Missing Parts, Applicants enclose two executed declarations and a copy of the Notice.

Applicants have enclosed a Fee Transmittal sheet indicating that the small entity fee of $65.00 should be paid from Deposit Account 17-0055. No other fees are

believed necessary to enter this Declaration. However, if other fees are necessary, please charge Deposit Account 17-0055.

Respectfully submitted,

Kirk J. Hogan, et al.

November 1, 2001

By: Jean C. Baker

Jean C. Baker
Reg. No. 35,433
Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497
(414) 277-5709

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JAN 15 2002

#6

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
09/908,410	07/18/2001	Kirk J. Hogan	960296.98148

CONFIRMATION NO. 8132

FORMALITIES LETTER

OC000000006565127

27114
QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

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Date Mailed: 09/17/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 130.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

01/22/2002 BHABTEW 00000035 170055 09908410
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/24/08

Paper No.: —

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/908410 Patent No: 6664059B2

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: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE — 1634 **Art Unit**