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UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cantor Colburn
55 Griffin Road South
Bloomfield, CT 06002

In re Application of FARDEAU, Jean-Francois Application No.: 09/914,729 PCT Application No.: PCT/FR00/00889 International Filing Date: 07 April 2000 Priority Date: 08 April 1999 Attorney Docket No.: GER-0278 For: DEVICE FOR MEASURING THE DIMENSION AND CONTROLLING OF DEFECTS IN OPTICAL FIBRES DURING PRODUCTION	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition for Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 31 August 2001 is **GRANTED**.

BACKGROUND

On 07 April 2000, applicant filed an international application, No.PCT/FR00/00889, which claimed a priority date of 08 April 1999. A copy of the application was transmitted by the International Bureau (IB) on 19 October 2000.

The deadline for entering the national stage was thus twenty months from the priority date, 08 December 2000. The application went abandoned when applicant failed to make the necessary filing.

On 31 August 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive the international application; the requisite petition fee; and the requisite basic national fee as required by 35 U.S.C. §371(c)(1).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant states "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," as required by 37 CFR 1.137(b)(3). The appropriate national fee, petition fee and international application have been submitted. A terminal disclaimer is not required as the application was filed on 07 April 2000. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing including issuance of the Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the oath or declaration and the surcharge for filing the oath or declaration after twenty months are required.

Erin M. Pender
Attorney Advisor
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Friedrich Kueffner
317 Madison Avenue
Suite 910
New York NY 10017

COPY MAILED

FEB 27 2006

OFFICE OF PETITIONS

In re Application of :
Hellenthal et al. :
Application No. 09/914,735 :
Filed: February 11, 2002 :
Attorney Docket No. HM-434PCT :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 10, 2005, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioners.

This application was held abandoned for failure to respond timely to the Notice of Allowance and Fee(s) Due, mailed on October 3, 2003, which set a three-month statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on January 4, 2004. A Notice of Abandonment was mailed on August 23, 2004.

In the petition, petitioners' attorney asserts that he never received the Notice of Allowance because it was mailed to the attorney's former address, even though he submitted a notification of change of address on June 7, 2002. Accordingly, petitioners request that the Office withdraw the holding of abandonment, mail the Notice of Allowance to the new correspondence address, and restart the period for reply.

A review of the record indicates that petitioners' attorney filed a change of correspondence address with the USPTO on June 13, 2002. Unfortunately, the USPTO did not enter the change of correspondence into the record. Consequently, the USPTO mailed the Notice of Allowance to an incorrect correspondence address.

In view of the above, the petition to withdraw the holding of abandonment is **granted**. The Notice of Abandonment was mailed in error and is hereby withdrawn.

As the petitioners' attorney did not receive the original Notice of Allowance mailed on October 3, 2003, **Technology Center Art Unit 3743 shall remail the Notice of Allowance and restart the period for response.**

The Office has entered the change of correspondence address and made it of record.

This matter is being forwarded to Technology Center Art Unit 3743 for further action consistent with this decision.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 3, 2007

TO SPE OF : ART UNIT 3694

SUBJECT : Request for Certificate of Correction on Patent No.: **7120610 B1 – 09/914753**

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

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

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

_____

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SPE

3694
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BROWDY AND NEIMARK
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Ulrich Upmeyer :
Application No. 09/914,773 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. UPMEYER=4 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 29, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 30, 2004.

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

This matter is being referred to Technology Center AU 3652.

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
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OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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DEC 3 0 2005

OFFICE OF PETITIONS

In re Application of
Sadayuki Abeta et al
Application No. 09/914,781
Filed: September 5, 2001
Attorney Docket No. 2135362PCT

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed December 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 13, 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 2664 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due 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).*

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MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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DEC 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Sadayuki Abeta et al	:	
Application No. 09/914,781	:	DECISION GRANTING PETITION
Filed: September 5, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2135362PCT	:	

This is a decision on the petition, filed December 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 13, 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 2664 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).*

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Young & Thompson
745 South 23rd Street
2nd Floor
Arlington, VA 22202

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OFFICE OF PETITIONS

In re Application of	:	
Peter O'Brien	:	
Application No. 09/914,783	:	ON PETITION
Filed: September 5, 2001	:	
Attorney Docket No. 01P101:RC:SB	:	

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

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1700.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

APR 0 2 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov

William M. Lee, Jr.
Lee, Mann, Smith, McWilliam, Sweeney & Ohlson
209 South LaSalle Street
Chicago, IL 60604-1202

In re Application of
RUSHBROOKE, John Gordon et al.
Application No.: 09/914,803
PCT No.: PCT/GB00/00212
Int. Filing Date: 25 January 2000
Priority Date: 16 March 1999
Attorney's Docket No.: 602-1539
For: SAMPLE IMAGING

NOTIFICATION

OF A

DEFECTIVE RESPONSE

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. §371.

BACKGROUND

On 25 January 2000, applicants filed international application PCT/GB00/00212, which claimed a priority date of 16 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 September 2000.

On 29 August 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 23 October 2001, the Office mailed a "Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office," (Form PCT/DO/EO/905) noting, *inter alia*, that an oath or declaration of the inventors complying with 37 CFR 1.497(a)-(b) was required.

On 31 December 2001, applicants filed a declaration executed by Claire E. Hooper, who signed on behalf of herself and John Gordon Rushbrooke, to execute the declaration.

DISCUSSION

Under 37 CFR 1.497(b), the oath or declaration must be made by all of the actual inventors except as provided in §§1.42, 1.43 or 1.47. Applicants have not filed a request for status under 37 CFR 1.42 or 37 CFR 1.43, nor have applicants filed a petition under 37 CFR 1.47.

As such, the declaration signed by Claire Elizabeth Hooper on behalf of John Gordon Rushbrooke is unacceptable as it fails to comply with 37 CFR 1.497(b).

CONCLUSION

For the above reasons, the declaration does not comply with 37 CFR 1.497(a)-(b).

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 within a time limit of **ONE (1) MONTH** from the mail date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements (Form PCT/DO/EO/905), whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136(a), but the period for response set in the Notification of Missing Requirements may be extended up to a maximum of five months. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Response to Notification of Defective Response."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Richard Cole
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

MAY 1 0 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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William M. Lee, Jr.
Lee, Mann, Smith, McWilliam, Sweeney & Ohlson
209 South LaSalle Street
Chicago, IL 60604-1202

In re Application of RUSHBROOKE, John Gordon et al. Application No.: 09/914,803 PCT No.: PCT/GB00/00212 Int. Filing Date: 25 January 2000 Priority Date: 16 March 1999 Attorney's Docket No.: 602-1539 For: SAMPLE IMAGING	DECISION ON REQUEST UNDER 37 CFR 1.43

This communication is in response to applicants' "Supplementation to Response to Notification of a Defective Response," submitted via facsimile to the United States Patent and Trademark Office on 27 April 2002. This has been treated as a request for status under 37 CFR 1.43.

BACKGROUND

On 25 January 2000, applicants filed international application PCT/GB00/00212, which claimed a priority date of 16 March 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 September 2000.

On 29 August 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 23 October 2001, the Office mailed a "Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office," (Form PCT/DO/EO/905) noting, *inter alia*, that an oath or declaration of the inventors complying with 37 CFR 1.497(a)-(b) was required.

On 31 December 2001, applicants filed a declaration executed by Claire E. Hooper, who signed on behalf of herself and John Gordon Rushbrooke, to execute the declaration.

On 03 April 2002, the Office mailed a Notification of a Defective Response indicating that the declaration did not comply with 37 CFR 1.497(a)-(b).

On 12 April 2002, applicants submitted "Initial Response to Notification of a Defective Response," indicating that Dr. Rushbrooke is legally incapacitated.

On 27 April 2002, applicants submitted the instant response accompanied by *inter alia* a declaration executed by Claire E. Hooper on behalf of herself and on behalf of John Gordon Rushbrooke as legal representative.

DISCUSSION

The oath or declaration for entry into the national stage in the United States must comply with 37 CFR 1.497(a)-(b). The 12 April 2002 submission indicates that Dr. Rushbrooke is legally incapacitated. Under 37 CFR 1.43, in the event of legal incapacitation of an inventor, "the legal representative ... of such inventor may make the necessary oath or declaration, and apply for and obtain the patent." The 27 April 2002 declaration identifies Claire E. Hooper as the Legal Representative and provides her residence, citizenship and address in addition to Dr. Rushbrooke's residence, citizenship and address. The 27 April 2002 declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicants' request for status under 37 CFR 1.43 is **GRANTED**.

The application has an international filing date of 25 January 2000 under 35 U.S.C. §363 and a date of 27 April 2002 under 35 U.S.C. §371. This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov

#5

Colin P. Cahoon
CARSTENS, YEE & CAHOON, L.L.P.
Post Office Box 802334
Dallas, Texas 75380

In re Application of	:	
Shigemasa TAKAGI	:	
Application No.: 09/914,804	:	DECISION ON
PCT No.: PCT/JP00/09334	:	PETITION
Int. Filing Date: 27 December 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 27 December 1999	:	
Attorney Docket No.: CONDA.00001	:	
For: RUBBER COATED STRANDS; BELT, PLY, AND TIRE USING RUBBER COATED STRANDS; AND APPARATUS AND METHOD FOR MANUFACTURING THEM	:	

The petition to revive under 37 CFR 1.137(b) filed 30 August 2001 in the above-captioned application is hereby **GRANTED** as follows:

The appropriate petition fee for a small entity as required by 37 CFR 1.17(m) has been submitted.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements under 37 CFR 1.137(b)(3) at the time of filing this petition. A review of the declaration of the inventor submitted with the petition reveals that it is in compliance with 37 CFR 1.497.

Applicant's claim for priority is acknowledged. The application has an international filing date of **27 December 2000** under 35 U.S.C. 363 and a date of **30 August 2001** under 35 U.S.C. 371.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application under 35 U.S.C. 371(c) and 37 CFR 1.494 (Form PCT/DO/EO/903) and for preparation and mailing of a filing receipt.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/LES:hn

Tel: (703) 308-6508

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

CARSTENS YEE & CAHOON
P O BOX 802334
DALLAS, TX 75380

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AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Shigemasa Takagi	:	
Application No. 09/914,804	:	NOTICE
Filed: August 30, 2001	:	
Attorney Docket No. CONDA.00001	:	

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 1733.

Wan Laymon

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

SPE: Kwang Yao

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/14/07

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/914,842 Patent No.: 7123591

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2616
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070604

DATE : June 4, 2007

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction on Patent No.: 7,123,591

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.

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

Comments:

SPE: Wellington Chin **Art Unit** 2616

07 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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James A. Oliff
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, Virginia 22320

In re Application of	:	
RASMUSSEN	:	
Serial No.: 09/914,852	:	DECISION VACATING
PCT No.: PCT/DK00/00085	:	
Int. Filing Date: 01 March 2000	:	NOTIFICATION OF MISSING
Priority Date: 11 March 1999	:	
Atty. Docket No.: 110517	:	REQUIREMENTS
For: TRANSFER PRINTING MACHINE	:	
	:	

This is a response to applicant's "Resubmission of Response to Notification of Missing Requirements" filed 01 August 2002, which has been treated as a request to vacate the Notification of Missing Requirements (PCT/DO/EO/905) mailed 08 November 2001 in view of the filing of a declaration in compliance with 37 CFR 1.497 on 10 September 2001.

On 01 March 2000, applicants filed international application PCT/DK00/00085 which claimed a priority date of 11 March 1999. A proper Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 11 September 2001.

On 04 September 2001, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee of $430, a copy of the international application, and a preliminary amendment.

On 08 November 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 01 August 2002, applicant filed "Resubmission of Response to Notification of Missing Requirements" which was accompanied by a copy of the declaration filed on 10 September 2001 and 13 December 2001 and postcard receipts evidencing its receipt in the Patent and Trademark Office on 10 September 2001 and 13 December 2001 and requests, in effect, that the copy of the declaration be accepted as a true copy of the declaration filed 10 September 2001.

A review of the papers filed on 01 August 2002 reveal that a declaration in compliance with 37 CFR 1.497 was received in the Patent and Trademark Office on 10 September 2001. Applicant's request to vacate the Notification of Missing Requirements is **GRANTED**.

In view of the declaration filed 10 September 2001, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 08 November 2001 is hereby **VACATED**.

The application has an international filing date of 15 October 1998 under 35 U.S.C. 363 and a 35 U.S.C. 102(e) and 371(c) date of **10 September 2001**.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone 703-308-6314
Fax: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

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OFFICE OF PETITIONS

In re Patent of :
Mullins et al. :
Patent No. 6,968,189 :
Issue Date: November 22, 2005 : Letter
Application No. 09/914,853 :
Filing Date: November 26, 2001 :
Attorney Docket No. 57724-52 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed November 18, 2005.

The deficiency payment of $700 is hereby accepted.

The change of status to large entity has been entered and made of record.

The file is being forwarded to Files Repository.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

DEC 0 6 2001

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In re Application of	:	
BROWN, et al.	:	DECISION ON PETITION
Application No.: 09/914,867	:	
PCT No.: PCT/US00/05427	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 02 March 2000	:	
Priority Date: 02 March 1999	:	
Attorney Docket No.: 1240.026	:	
For: BRAKE SYSTEM HAVING HYDRAULIC	:	
ACCUMULATOR AND/OR COMBINED	:	
SERVICE BRAKE AND PARK AND	:	
HOLD BRAKE	:	

This decision is in response to applicant's "Petition Under 37 CFR § 1.137(b) for Revival of an Application for Patent Abandoned Unintentionally" filed 04 September 2001 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 02 March 2000, applicant filed international application PCT/US00/05427 which claimed priority of an earlier application filed 02 March 1999. A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 02 November 2000.

On 02 November 2000, the application became abandoned for failure to pay the basic national fee for a U.S. national stage entry application.

On 04 September 2001, applicant filed the present petition accompanied by a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371;" payment of the basic national fee, an Information Disclosure Statement, an assignment document for recording and an executed combined declaration and power of attorney of the inventors.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was the payment of the basic national fee. Applicants have included this payment along with the present petition.

As to Item (2), applicants have included this payment along with the present petition.

With regard to Item (3), applicant's statement that, "the entire delay in filing the required reply, from the November 2, 2000 due date for replying to an outstanding action by entering the national phase until the filing of a grantable petition under 37 CFR § 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

A review of the filed declaration finds that it does not comply with 37 CFR 1.497(a)-(b). The name of the first inventor is listed as David D. BROWN on the declaration and executed as "Donald D. Brown", the name which appears as the first named inventor on the International Application. In addition, the signature for the fourth named inventor, Joseph A. LANG is executed by what appears to be an executrix, "Susan R. Lang" however, applicant has not provided an explanation pursuant to 37 CFR 1.42 regarding the death of this inventor.

The first sentence of 37 CFR 1.42 states:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

While the declaration is executed by Susan R. LANG as the executrix of the estate of deceased inventor Joseph A. LANG, the declaration does not set forth the residence, post office address and country of citizenship of Susan R. LANG as required under 37 CFR 1.497(b). This information must be provided for both the deceased joint inventor, Joseph A. LANG and the

executrix, Susan R. LANG.

Lastly, the declaration contains three second pages. This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

CONCLUSION

For the reasons stated above, the petition for revival is **GRANTED**.

As authorized, $130.00 will be deducted from Deposit Account No.: 50-1170 as payment of the surcharge for providing an oath or declaration later than twenty months from the priority date.

Applicants are hereby afforded TWO (2) MONTHS from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Regarding the status of the fourth named inventor, Joseph A. LANG, applicant's response should include a cover letter entitled, "Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Leonard Smith
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PCT Legal Office

Derek A. Putonen
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MAY 2 2 2002
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In re Application of BROWN, et al. Application No.: 09/914,867 PCT No.: PCT/US00/05427 Int. Filing Date: 02 March 2000 Priority Date: 02 March 1999 Attorney Docket No.: 1240.026 For: BRAKE SYSTEM HAVING HYDRAULIC ACCUMULATOR AND/OR COMBINED SERVICE BRAKE AND PARK AND HOLD BRAKE	DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is in response to applicant's "Petition Under 37 CFR §1.42" filed in the United States Patent and Trademark Office (USPTO) on 13 March 2002.

BACKGROUND

On 06 December 2001, applicant was mailed a decision granting applicant's petition to revive the present application pursuant to 37 CFR 1.137(b). In the decision applicant was advised that the filed declaration did not comply with 37 CFR 1.497(a)-(b). Applicant was afforded two months to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Regarding the status of the fourth named inventor, Joseph A. LANG, applicant was advised that the response should include a cover letter entitled, "Petition Under 37 CFR 1.42." Extensions of time under 37 CFR 1.136(a) were made available.

On 13 March 2002, applicant filed the present petition accompanied by an executed declaration, request for a one-month extension of time and a check in the amount of $110.00 as payment of the one-month extension of time fee. With the filing of the request, payment of the extension fee and certification that the papers were deposited for mailing on 04 March 2002, the response is considered to be timely filed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 06 March 2002 is executed by Susan R. LANG as the executrix of the estate of Joseph A. LANG and provides the executrix's residence, post office address and country of citizenship. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 06 March 2002.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 02 March 2000 and a date of **06 March 2002** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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24 JUL 2002

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In re Application of	:	
BROWN, et al.	:	
Application No.: 09/914,867	:	SUPPLEMENTAL DECISION
PCT No.: PCT/US00/05427	:	
Int. Filing Date: 02 March 2000	:	ON PAPERS UNDER
Priority Date: 02 March 1999	:	
Attorney Docket No.: 1240.026	:	37 CFR 1.42
For: BRAKE SYSTEM HAVING HYDRAULIC ACCUMULATOR AND/OR COMBINED SERVICE BRAKE AND PARK AND HOLD BRAKE	:	

On 22 May 2002, applicant was mailed a decision granting applicant's petition under 37 CFR 1.42. The application was afforded a date of **06 March 2002** under 35 U.S.C 371(c) and returned to the United States Designated/Elected Office (DO/EO/US) for processing and mailing of a Notification of Acceptance (Form PCT/DO/EO/903). The date afforded should have been the date the newly executed declaration was filed, 13 March 2002. Therefore, the decision mailed 22 May 2002 affording a date of 06 March 2002 under 35 U.S.C 371(c) is hereby **VACATED**.

Applicant's renewed petition under 37 CFR 1.42 is **GRANTED** for the reasons detailed in the 22 May 2002 decision.

The application has an international filing date of 02 March 2000 under 35 U.S.C. 363 and a date of **13 March 2002** under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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Paper No. 15

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OCT 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Nissim Darvish, et. al. :
Application No. 09/914,889 : ON PETITION
Filed: January 24, 2002 :
Attorney Docket No. 015/02367 :

This is a decision on the petition filed April 19, 2004, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

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

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.

37 CFR 1.78(a)(2)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is: (1) an application for a design patent; (2) an application filed under 35 U.S.C. § 111(a) before November 29, 2000; and (3) **a nonprovisional application which entered the national stage after compliance with 35 U.S.C. § 371 from an international application filed under 35 U.S.C. § 363 before November 29, 2000.**

Since the instant nonprovisional application is the national stage entry of an international application filed prior to November 29, 2000, the provisions of 37 CFR 1.78(a)(3) for acceptance of a late claim for priority do not apply to the subject nonprovisional application. Accordingly, the petition is dismissed as involving a moot issue.

In view of the dismissal of the instant petition as moot, the $1,330 fee submitted therefor is unnecessary and has been refunded to petitioner's deposit account.

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.

This application is being returned to Technology Center Art Unit 3762 for review of the amendment filed April 19, 2004.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

cc: William H. Dippert, Esq.
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25 SEP 2003

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In re Application of	:	
MEARS, Robert, et al.	:	
U.S. Application No.:09/914,944	:	
PCT No.: PCT/GB00/00768	:	DECISION
International Filing Date: 03 March 2000	:	
Priority Date: 05 March 1999	:	
Attorney's Docket No.: NVSS-P01-001	:	
For: IMPROVEMENTS IN AND RELATING TO	:	
GRATINGS	:	

This decision is issued in response to the "Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181" filed 28 July 2003.

BACKGROUND

The procedural background of this application was set forth in the Communication mailed by this Office on 18 June 2003. That Communication informed applicants that this application was abandoned based on the failure to respond to the Notification Of Missing Requirements mailed 15 February 2002.

On 28 July 2003, applicants filed the present petition. The petition argues that the abandonment should be withdrawn because counsel for applicants never received the Notification Of Missing Requirements.

DISCUSSION

Section 711.03(c)II of the MPEP sets forth the requirements for establishing the failure to receive an Office communication:

> 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.

Here, though it is implied, the petition does not contain the required express statement that counsel has searched the file jacket and that the Notification Of Missing Requirements is not contained therein (such statement is required from current counsel, who have the application file, and from prior counsel, with respect to any file materials they maintained after the transfer of the application to current counsel).

Regarding the docket records requirement, applicants have attached a copy of prior counsel's docket sheet for this particular file. These docket records are not sufficient. They apply only to this particular case, and therefore do not provide evidence as to whether the Notification Of Missing Requirements was received but simply docketed under an incorrect case. Applicant must provide a copy of the docket record which sets out all the responses due in the USPTO on 15 April 2002, the date on which a response to the Notification Of Missing Requirements was due.

Because applicant has not satisfied all the requirements for establishing that the Notification Of Missing Requirements was not received, the application remains properly abandoned.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice. The application remains abandoned.

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 to Under 37 CFR 1.181." No petition fee is required.

Any further correspondence with respect to this matter deposited should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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15 JAN 2004

#18

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In re Application of	:	
MEARS, Robert, et al.	:	
U.S. Application No.:09/914,944	:	
PCT No.: PCT/GB00/00768	:	DECISION ON RENEWED PETITION
International Filing Date: 03 March 2000	:	
Priority Date: 05 March 1999	:	
Attorney's Docket No.: NVSS-P01-001	:	
For: IMPROVEMENTS IN AND RELATING TO GRATINGS	:	

In a decision mailed by this Office on 25 September 2003, applicants' petition under 37 CFR 1.181 was dismissed for failure to satisfy all the requirements for a grantable petition. Specifically, the decision stated that applicants "must provide a copy of the docket record [of prior counsel] which sets out all the responses due in the USPTO on 15 April 2002, the date on which a response to the Notification Of Missing Requirements was due." The decision also required specific statements from both current and prior counsel with respect to the non-received Notification.

On 25 November 2003, applicants filed the renewed petition considered herein. This renewed petition is accompanied by the statements and docket records required by the earlier decision. Applicants have now submitted all the requirements for a grantable petition to withdraw the holding of abandonment based on the failure to receive an Office communication.

Applicants' renewed petition is **GRANTED**.

Applicants assertion that the Notification Of Missing Requirements mailed 15 February 2002 was not received is accepted.

The Notification Of Abandonment mailed 03 July 2003, based as it was on applicants' failure to respond to the Notification Of Missing Requirements, is appropriately **VACATED**.

Applicants have still not submitted an executed declaration in compliance with 37 CFR 1.497. Applicants have **TWO (2) MONTHS** from the mail date of this decision to submit such declaration. Failure to file a timely and proper response will result in abandonment of the application.

Any further correspondence with respect to this matter deposited should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of BERGER, Thomas, et al. Application No.: 09/914,950 PCT No.: PCT/EP00/04733 Int. Filing Date: 24 May 2000 Priority Date: 26 May 1999 Attorney's Docket No.: 18446.3 For: ELECTRODE UNIT FOR RECHARGEABLE ELECTROCHEMICAL CELLS	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' response to Notification of Missing Requirements, filed 06 December 2001, in effect asking that the Office vacate the Notification of Missing Requirements mailed 24 October 2001. This response is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 24 May 2000, applicants filed international application PCT/EP00/04733, which claimed a priority date of 26 May 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 December 2000. On 17 November 2000, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 26 November 2001.

On 06 September 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration executed by Thomas Berger, Birgit Fuchs, and Angela Piepke.

On 24 October 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration was defective because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and that the surcharge for late filing of the oath or declaration was due.

On 06 December 2001, applicants filed the instant response to the Notification of Missing Requirements, accompanied by, *inter alia*, copies of the Notification of Missing Requirements and a fax from the PCT Help Desk.

DISCUSSION

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

The inventors in the international application are Thomas Berger, Birgit Fuchs and Angela Mayer. The inventors on the declaration are Thomas Berger, Birgit Fuchs and Angela Piepke. Thus, the declaration fails to comply with 37 CFR 1.497(a)(3). Because the Notification of Missing Requirements indicated that the declaration was defective based on improper execution, rather than upon failure to identify each inventor named in the international application, the Notification of Missing Requirements is hereby vacated.

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

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **GRANTED**, to the extent that the Notification of Missing Requirements mailed 24 October 2001 is **VACATED**.

A proper response as indicated above must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

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In re Application of BERGER, Thomas, et al. Application No.: 09/914,950 PCT No.: PCT/EP00/04733 Int. Filing Date: 24 May 2000 Priority Date: 26 May 1999 Attorney's Docket No.: 18446.3 For: ELECTRODE UNIT FOR RECHARGEABLE ELECTROCHEMICAL CELLS	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicants' second response to Notification of Missing Requirements, filed 08 March 2002. This response is being treated as a petition under 37 CFR 1.182. The petition fee will be charged as authorized by the transmittal letter.

BACKGROUND

On 24 May 2000, applicants filed international application PCT/EP00/04733, which claimed a priority date of 26 May 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 December 2000. On 17 November 2000, applicants filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 26 November 2001.

On 06 September 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration executed by Thomas Berger, Birgit Fuchs, and Angela Piepke.

On 24 October 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration was defective because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and that the surcharge for late filing of the oath or declaration was due.

On 06 December 2001, applicants filed a response to the Notification of Missing Requirements, accompanied by, *inter alia*, copies of the Notification of Missing Requirements and a fax from the PCT Help Desk.

On 28 February 2002, the Office mailed Decision On Petition Under 37 CFR 1.181 granting the request to vacate the Notification of Missing Requirements mailed 24 October 2001

and requiring that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) be submitted. It set a two month extendable period for reply.

On 08 March 2002, applicants filed "Second Transmittal Letter In Response To A Notification of Missing Requirements Under 35 USC 371," accompanied by, *inter alia*, a declaration of Angela Piepke.

DISCUSSION

Applicants' submission of a declaration of Angela Piepke stating that she is "one and the same person as Angela Mayer, the name change resulting from marriage" has been treated as a petition under 37 CFR 1.182. The statement is required to be signed in both names and to state the procedure by which the name changed. The declaration fulfills both.

The petition fee of $130 will be charged to deposit account no. 50-0698, as authorized by the transmittal letter.

It is noted that the English translation filed on 06 September 2001 is defective because text in the drawings was not translated. As such, an English translation of the international application and the processing fee for late filing of the English translation are required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.182 is **GRANTED**.

A translation of the international application and the processing fee for late filing of the English translation are required within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to await receipt of the proper reply.

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26 NOV 2003

#6

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In re Application of YUAN, et al. Application No.: 09/914,957 PCT No.: PCT/US00/06371 Int. Filing Date: 10 March 2000 Priority Date: 11 March 1999 Attorney Docket No.: 99,134-E For: ARYL FUSED 2,4-DISUBSTITUTED PYRIDINES: NK3 RECEPTOR LIGANDS	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's correspondence filed 15 April 2003 in the United States Patent and Trademark Office (USPTO). The filing is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present application. No petition fee is due.

BACKGROUND

On 10 March 2000, applicant filed international application PCT/US00/06371 which claimed priority to an application filed 11 March 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 11 September 2001.

On 30 August 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by payment of the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 26 October 2001, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was provided two months to file the proper response and advised that this time could be extended pursuant to 37 CFR 1.136(a).

On 21 November 2002, applicant was mailed a NOTIFICATION OF ABANDONMENT

(Form PCT/DO/EO/909) for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 26 October 2001 within the time period set therein.

On 15 April 2003, applicant responded with the present petition.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicant, application number and docket number. Among the items listed on the receipt is "Declaration and Power of Attorney" The receipt is stamped "JC07 Rec'd PTO/PCT 22 JAN 2002." Thus, it is clear that applicant filed an executed combined declaration and power of attorney on 26 March 2002. In addition, an examination of the fee records for the present application shows that the surcharge for filing an executed oath or declaration of the inventor later than thirty months from the priority date, as well as the other noted fees, was credited to the application on that date. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the combined declaration and power of attorney filed 15 April 2002 as a substitute for the combined declaration and power of attorney originally filed 22 January 2002.

It is noted that applicant's response filed 22 January 2002 includes certification under 37 CFR 1.8 that the filing was deposited for mailing on 28 November 2001 and is therefore considered a timely response to the Form PCT/DO/EO/905 mailed 26 October 2001. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED.**

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 21 November 2002 is hereby **VACATED**.

The application has an international filing date of **10 March 2000** under 35 U.S.C. 363 and will be given a date of **22 January 2002** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/9/09

Paper No.: —

TO SPE OF : ART UNIT 2434

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/914967 Patent No.: 7043751 B1

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: APPROVED ALL

/KAMBIZ ZAND/
SPE

2434
Art Unit

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.
09/914,972	12/14/2001	Kay Brodesser	BRODESSER ET AL -2 PCT	6642

25889 7590 05/04/2007
WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

EXAMINER
BENTON, JASON

ART UNIT	PAPER NUMBER
3747	

MAIL DATE	DELIVERY MODE
05/04/2007	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. BRODESSER ET AL. Issue Date: 06/24/2003 Appl No.: 09/914,972 Filed: December 14, 2001 For: Suction System for an Internal Combustion Engine	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed April 2, 2004 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.

Stephen K. Cronin
Supervisory Patent Examiner
Art Unit 3747
Technology Center 3700

WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

UNITED STATES 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: May 2, 2007
TO: Certificates of Correction Branch
FROM: Stephen K. Cronin
SPE, Art Unit 3747
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,581,561 as specified on the attached Certificate.

Stephen K. Cronin, SPE
Art Unit 3747

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,581,561
Patented: 06/24/2003

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:

Kay Brodesser, Rutesheim (DE);
Hans-Peter Drespling, Heidenheim (DE);
Hans Jensen, Kirchheim (DE);
Gunter Kachler, Ingersheim (DE);
Horst Schneider, Waiblingen (DE);
Jurgen Stehlig, Neckartailfingen (DE);
Joachim Kelm, Pforzheim (DE);
Frank Dieterle, Ditzingen (DE)

Stephen K. Cronin
Supervisory Patent Examiner
Art Unit 3747

UNITED STATES 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 COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

COPY MAILED

APR 13 2004

OFFICE OF PETITIONS

In re Patent of :
Brodesser et al. :
Patent No. 6,581,561 :
Issue Date: June 24, 2003 :
Application No. 09/914,972 :
Filing Date: December 14, 2001 :
Attorney Docket No. Brodesser et al - 2PCT :

Decision on Petition

This is a decision on the petition under 37 C.F.R. § 1.183, filed April 2, 2004, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is **dismissed.**

Petitioner requests that a Certificate of Correction be allowed adding the name of "Dr. Ing. h.c.F. Porsche." However, a Certificate of Correction can only be accepted when a mistake was made on the patent. Since petitioner has not proven that the assignee to be added was an assignee at the time the patent issued, petitioner has not proven that it was a mistake to leave that assignee's name off the patent.

In addition, Office PALM computer database records do not reflect that an assignment in the name of the assignee sought by the certificate of correction was ever recorded. A certificate of correction will only be proper when an assignee was *of record* at the time the patent issued. The record fails to establish that an assignment to the assignee to be added was recorded prior to the issuance of the patent and therefore the petition cannot be granted.

The file is being forwarded to Technology Center 3700 to render a decision on the petition to correct inventorship filed on April 2, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

COPY MAILED

OCT 16 2008

OFFICE OF PETITIONS

Letter

In re Patent of Brodesser et al. :
Patent No. 6,581,561 :
Issue Date: June 24, 2003 :
Application No. 09/914,972 :
Filing Date: December 14, 2001 :
Attorney Docket No. Brodesser et al. - 2PCT :

This is a decision in response to the paper filed August 7, 2008,[1] which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the above-identified patent.

The request under 37 CFR 3.81 is **dismissed**.

Effective June 25, 2004, the practice relating to issuance of a patent to an assignee was modified by requiring that, after payment of an issue fee, a request for a certificate of correction must be filed in order to obtain issuance of the patent to an assignee. Thus, where the assignment data is submitted after payment of the issue fee, the patent document will not include the assignment information. Therefore, as 37 CFR 3.81(b) was modified to provide for issuance of the patent to the assignee, the practice of waiving the rule (37 CFR 3.81(a)) under 37 CFR 1.183 is longer necessary and has been eliminated.

37 CFR 3.81(b) states, with emphasis added,

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the *assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent....*

The papers filed August 7, 2008, request the Office issue a certificate of correction that includes "Dr. Ing. h.c.F. Porsche Aktiengesellschaft, Weissach (DE)"(Dr. Ing.) as an assignee.

The patent issued June 24, 2003. The record fails to indicate the recordation of an assignment to Dr. Ing on any date prior to April 4, 2004. Therefore, since the assignment was not recorded as

[1] The original copy of the papers filed September 10, 2007, cannot be located. Therefore, the instant letter is based on the copy of the papers filed August 7, 2008.

of the date the application issued as a patent, a certificate of correction adding the assignee will not be issued.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Request under 37 CFR 3.81."

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

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

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

COHEN, PONTANI, LIEBERMAN & PAVANE
Suite 1210
551 Fifth Avenue
New York NY 10176

COPY MAILED

AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of
Janne Linkola
Application No. 09/915,009
Filed: July 25, 2001
Attorney Docket No. 2132-49PCON
Title: METHOD AND SYSTEM FOR THE ROUTING OF SHORT MESSAGES

DECISION ON PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b)[1], filed April 4, 2002.

The petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a complete copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign, or cannot be reached after diligent efforts;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

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 25, 2001, without an executed oath or declaration and identifying Janne Linkola as the sole inventor. On September 4, 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 37 CFR §1.63 and a surcharge for the late filing of the oath or declaration. This Notice set a two-month period for reply.

In reply, applicant filed the original petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, and a five-month extension of time to make timely this reply.

With the petition, the petitioner has provided the last known address of the inventor, a statement by a person having firsthand knowledge of the underlying events (Anni Vepsalainen, senior vice president of the assignee), and a declaration executed by Haire Laitinen and Tia Tuouinen, attorneys for the assignee.

The petitioner asserts that the non-signing inventor worked for the assignee during the relevant period of invention, and that a specification and declaration were mailed to his last known address.

Rule 47 applicant has met requirements (1) – (3), and (6) – (7) above.

Regarding the fourth requirement above, the statement of Ms. Vepsalainen, "we delivered the declaration together with specification to Janne Linkola[2]" fails to establish that a complete copy of the application papers was not sent to the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] As only the declaration and the specification was sent, the fourth requirement has not been met. On renewed petition, it should be established that a complete copy of the application was sent to the non-signing inventor.

Furthermore, the language cited above seems to suggest that an employee of the assignee other than the declarant mailed the package to the non-signing inventor. On renewed petition, the petitioner should submit a statement from a party having first-hand knowledge of the events.

Regarding the fifth requirement above, it follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does

2 Declaration of Vepsalainen, page 1.
3 See MPEP 409.03(d).

not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[4].

Regarding the eighth requirement above, the submitted declaration is not in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63. It is noted that two representatives of the assignee have executed the declaration on behalf of the non-signing inventor. First, although two people have executed this declaration, the pertinent info is only given for one party[5]. Secondly, the citizenship is listed as "Finnish", when the declarant should have written "Finland". On renewed petition, the petitioner should either provide an executed oath or declaration, or one that corrects the deficiencies set forth above.

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

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

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

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

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

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

4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

5 If these two general counsel wish to execute the declaration on behalf of the non-signing inventor, the pertinent information for both will be required. See MPEP §§ 409.03(b), 409.03 (f), and 605.04(a).

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

COHEN, PONTANI, LIEBERMAN & PAVANE
Suite 1210
551 Fifth Avenue
New York NY 10176

COPY MAILED

OCT 2 9 2002

OFFICE OF PETITIONS

In re Application of Janne Linkola Application No. 09/915,009 Filed: July 25, 2001 Attorney Docket No. 2132-49PCON Title: METHOD AND SYSTEM FOR THE ROUTING OF SHORT MESSAGES	:	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition[1] under 37 CFR §1.47(b)[2], filed October 2, 2002.

The above-identified application was filed on July 25, 2001, without an executed oath or declaration and identifying Janne Linkola as the sole inventor. On September 4, 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 37 CFR §1.63 and a surcharge for the late filing of the oath or declaration. This Notice set a two-month period for reply.

---

1 The original petition was filed on April 4, 2002, and dismissed via a decision mailed on August 6, 2002.

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

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a complete copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign, or cannot be reached after diligent efforts;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

In reply, applicant filed the original petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, and a five-month extension of time to make timely this reply.

The original petition was dismissed for failure to meet requirements (4), (5), and (8).

With the renewed petition, petitioner has submitted a declaration of facts and a new declaration, which correct the previously indicated deficiencies.

As such, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

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

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

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

Pillsbury Winthrop LLP
Intellectual Property Group
50 Fremont Street
San Francisco, CA 94105

COPY MAILED

JUL 1 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Jones	:	
Application No. 09/915,016	:	DECISION GRANTING
Filed: July 25, 2001	:	PETITION
Attorney Docket No. PW 53403 272575	:	

This is a decision on the petition filed March 8, 2002, to accord the above-identified application a filing date of July 25, 2001.

On July 25, 2001, the application was filed.

On February 1, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on July 25, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "#5 No. Sheets Drawings (Fig(s) 1 to 5)" on July 25, 2001.[1] Petitioner has also submitted a copy of the missing documentation- 5 sheets of drawings.

Upon review of the record, the drawings, deposited on July 25, 2001, have not been located. However, the evidence is convincing that the application papers deposited on July 25, 2001, included 5 sheets of drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of July 25, 2001.

In view of the above, the petition is **granted**. The copy of the 5 sheets of drawings submitted with the petition will be used for examination purposes.

The petition fee of $130 will be credited to the deposit account listed in the petition.

The Notice mailed February 1, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 25, 2001, using the application papers filed on July 25, 2001, and the copy of 5 sheets of drawings filed on March 8, 2002.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PIETRAGALLO, BOSICK & GORDON
ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH, PA 15219-6404

COPY MAILED

MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Sidwell, Donald R.	:	
Application No. 09/915,032	:	ON PETITION
Filed: July 26, 2001	:	
Attorney Docket No. SW-00777	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 15, 2004. A Notice of Abandonment was mailed on November 22, 2004.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Cornelis et al.

Patent No.: 6,764,852 B2

Issued: July 20, 2004

For: INTERNAL RIBOSOME ENTRY SITE, VECTOR CONTAINING SAME AND USES THEREOF

Attorney Docket No.: 2676-4976US

VIA ELECTRONIC FILING

February 5, 2008

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT OFFICE MISTAKES (37 C.F.R. § 1.322)

Attn.: Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is noted that several errors appear in this patent of a typographical nature. These errors are due to mistakes in printing on the part of the U.S. Patent and Trademark Office, and occurred through no fault of the Applicants. A certificate of correction in the form attached hereto is requested.

Please send the Certificate to:

Name: Allen C. Turner
Address: TraskBritt
P.O. Box 2550
Salt Lake City, Utah 84110

Attached hereto is Form PTO/SB/44, which is suitable for printing.

Respectfully submitted,

Allen C. Turner
Registration No. 33,041
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

ACT/csw

Attachments: PTO/SB/44

Document in ProLaw

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,764,852 B2
APPLICATION NO. : 09/915,060
ISSUE DATE : July 20, 2004
INVENTOR(S) : Sigrid Cornelis and Rudi Beyaert

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:

In ITEM (56) References Cited, "Other Publications," 2nd column, 12th line, in Bag et al., after "Rat Muscle Cells", delete "ENDFIELD"

In the specification:

COLUMN 4,	LINE 43,	change "capase-processed" to --caspase-processed--
COLUMN 6,	LINES 60-61,	change "thyrnidine kinase" to --thymidine kinase--
COLUMN 7,	LINE 7,	change "forcoronary arterydisease " to --for coronary artery disease--
COLUMN 7,	LINES 33-34,	change "orderivatives thereof." to --or derivatives thereof.--
COLUMN 13,	LINES 35-36,	change "DES-mediated" to --IRES-mediated--
COLUMN 16,	LINE 62,	change "Karninski, A." to --Kaminski, A.--

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

Allen C. Turner
TRASKBRITT
230 South 500 East, Suite 300
Salt Lake City, Utah 84102 USA

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.
SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 16, 2008

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/915060 Patent No.: 6764852 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: All changes approved. The changes requested are typographical and grammatical matter.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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COPY MAILED Paper No.

DEC 2 2 2009

OFFICE OF PETITIONS

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of Fitzgibbon et al. Application No. 09/915,080 Filed: July 25, 2001 Attorney Docket No.: 5569/69789 Title: BARRIER MOVEMENT SYSTEM INCLUDING A COMBINED KEYPAD AND VOICE RESPONSIVE TRANSMITTER	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed November 3, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 6, 2009, 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 June 7, 2009. A notice of abandonment was mailed on September 24, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on November 3, 2009 can be processed in due course.

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] Accordingly, since the $ 1,110 extension of time submitted with the petition on November 3, 2009 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's Deposit Account.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.** Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries

---

1 See Rule 1.137(d).
2 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded

concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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PITNEY HARDIN LLP
7 TIMES SQUARE
NEW YORK NY 10036-7311

COPY MAILED
AUG 2 7 2004
OFFICE OF PETITIONS

In re Application of
Michael J. McMahon et al.
Application No. 09/915,100
Filed: July 25, 2001
Attorney Docket No. 769-236DIV.2

: 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 July 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on July 25, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to

the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *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 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 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 Senior Petitions Attorney Patricia Faison-Ball at (703)305-4497.

This application is being forwarded to Technology Center Art Unit 3721 for appropriate action on the amendment filed July 29, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional 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

PITNEY HARDIN KIPP & SZUCH LLP
685 THIRD AVENUE
NEW YORK, NY 10017

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DEC 0 2 2004

OFFICE OF PETITIONS

In re Application of	:
Michael J. McMahon et al	:
Application No. 09/915,103	: DECISION ON PETITION
Filed: July 25, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 769-236 Div.6	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to an additional prior-filed nonprovisional application; namely, Application No. 09/631,179, filed August 2, 2000.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 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 above-noted, 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).[1] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

---

[1] Amendment filed February 11, 2003.

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

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, 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 until otherwise instructed.

Any inquiries concerning this decision may be directed to the undersigned (571) 272-3218.

This matter is being referred to Technology Center Art Unit 3721 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

cc:

Gerald Levy
Pitney Hardin LLP
7 Times Square
New York, NY 10036-7311

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OFFICE OF PETITIONS

OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

In re Application of	:	
LEMMONS	:	
Application No. 09/915,114	:	DECISION ON PETITION
Filed: July 25, 2001	:	TO WITHDRAW
Attorney Docket No.. INTE.12US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 2006.

The request is **NOT APPROVED**.

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **Nixon Peabody LLP**
401 9th Street NW, Suite 900
Washington, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of :

LEMMONS, Thomas :
Application No. 09/915,114 : DECISION ON PETITION
Filed: July 25, 2001 : TO WITHDRAW
Attorney Docket No. INTE, 12US01 : FROM RECORD
:

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

The request is **APPROVED.**

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

The request was signed by Adam Keser on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: THOMAS LEMMONS
7784 S. SWAPS TRAIL
EVERGREEN, CO 80429

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET NW, SUITE 900
WASHINGTON, DC 2004

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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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GUNNAR G. LEINBERG
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603

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DEC 17 2008

In re Patent No. 7,184,076	:	
Issued: February 27, 2007	:	
Application No. 09/915,126	:	NOTICE
Filed: July 25, 2001	:	
Attorney Docket No. 20138/7331	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 31, 2008.

The request is **DISMISSED**.

Petitioner indicates status as a small entity changed as of December 31, 2005; however, the petition does not comply with the requirements of 37 CFR 1.28(c)(2)(ii), which states:

> (ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:
>
> > (A) Each particular type of fee that was erroneously paid as a small entity, (*e.g.*, basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
> >
> > (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
> >
> > (C) The deficiency owed amount (for each fee erroneously paid); and
> >
> > (D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

This communication is being treated under 1.27(g)(3) as a notification of a loss of entitlement to small entity status.

Applicant is given **ONE MONTH** to submit a complete listing of all the fees erroneously paid as a small entity and the total fee deficiency to avoid the return of the present fee deficiency paper. This time period is not extendable under 37 CFR 1.136(a).

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

[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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,133	07/25/2001	Michael John Dixon	LE9-00-083	6435

21972 7590 10/05/2005

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

EXAMINER
DONOVAN, LINCOLN D

ART UNIT	PAPER NUMBER
2832	

DATE MAILED: 10/05/2005

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:092805

DATE : September 28, 2005

TO SPE OF : ART UNIT

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

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: Elvin Enad **Art Unit** 2832

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

Kenneth F. Kozik
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

MAIL

JUL - 7 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Michael E. Karr et al.. Application No.: 09/915,139 Filed: July 25, 2001 For: FUNCTION VALUES IN COMPUTER PROGRAMMING LANGUAGES HAVING DYNAMIC TYPES AND OVERLOADING	DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

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 agnet.

The singer of the petition, Kenneth F. Kozik is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

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

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

James R. Matthews

ZM

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 9

FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

MAILED

OCT 23 2003

Technology Center 2100

In re Application of
Michael E. Karr, et al.
Application No. 09/915,139
Filed: July 25, 2001
For: FUNCTION VALUES IN COMPUTER PROGRAMMING LANGUAGES HAVING DYNAMIC TYPES AND OVERLOADING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed July 28, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on July 14, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Lahive & Cockfield LLP as the attorneys of record of the instant application. The Power Of Attorney of July 14,2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Lahive & Cockfield LLP.

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

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

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

cc: Kevin J. Canning, Esq.
Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/23/09

Paper No.: 15

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/915169 Patent No.: 6669936B2

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: Corrections are directed to typographical errors of the published patent.

JOSEPH WOITACH, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Joe Woitach
SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

SCOTT W. HEWETT
400 WEST THIRD STREET, #223
SANTA ROSA, CA 95401

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MAY 2 0 2003

OFFICE OF PETITIONS

In re Application of	:
Edmund L. Wolak et al	:
Application No. 09/915,184	: DECISION GRANTING PETITION
Filed: July 24, 2001	: UNDER 37 CFR 1.137(f)
Attorney Docket No. P1292	:

This is a decision on the petition, filed May 12, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on July 22, 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 nonpublication request has been rescinded.

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 2828 for appropriate action on the reply received April 29, 2003 to the nonfinal Office action of February 4, 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 03 2006

OFFICE OF PETITIONS

In re Application of	:
Watler, et al.	: DECISION ON PETITION
Application No. 09/915,203	:
Filed: July 23, 2001	:
Atty. Dkt. No.: 018684001510	:

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 14, 2005 for failure to timely reply to the final Office action re-mailed June 13, 2005. The final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 6, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 2600 for processing of the RCE submitted herewith.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SAN FRANCISCO CA 94111-3834

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Watler et al.	:	
Application No. 09/915,203	:	
Filed: July 23, 2001	:	DECISION ON PETITION
Attorney Docket No. 027952-	:	UNDER 37 C.F.R. § 1.137(B)
001510US	:	
Title: MULTIPLE VIRTUAL WALLETS	:	
IN WIRELESS DEVICE	:	

This is a decision on the petition filed November 3, 2009, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

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 July 29, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on October 30, 2008. A notice of abandonment was mailed on February 3, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed the petition fee and the proper statement of unintentional delay. Petitioner further submitted a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, including a request for consideration of a concurrently submitted amendment and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

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 submission under 37 C.F.R. § 1.114 - the amendment that was submitted on November 3, 2009 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

---

1 See Rule 1.137(d).

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).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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Paper No. 5

MERCHANT & GOULD PC
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MINNEAPOLIS MN 55402-0903

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OCT 2 0 2003

OFFICE OF PETITIONS

In re Application of
KOHL et al.
Application No. 09/915,211
Filed: July 25, 2001
Attorney Docket No. 9997.19USI1

DECISION ON PETITION

This is a decision on the petition filed August 11, 2003, requesting that the above-identified application be accorded a filing date of July 25, 2001.

On July 25, 2001, applicants filed the above-identified application. However, on August 13, 2001, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on July 25, 2001, describes drawings containing Figures 1-11, but no drawings were filed on July 25, 2001. Additionally, the Notice required an executed oath or declaration, the $710.00 statutory filing fee and $522.00 claim fees.

On February 13, 2002, applicants submitted a request for a four-month extension of time with the fee of $1,440.00. On January 13, 2003, the Office of Initial Patent Examination notified applicants of a continuity problem in application No. 10/269,673 due to the above-identified application's incomplete status. On August 11, 2003, applicants filed the present petition.

As stated in MPEP § 601.01(f), it is the practice of the United States Patent and Trademark Office (Office) to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" mailed August 13, 2001, was mailed in error and is hereby withdrawn.

The application is accorded a filing date of July 25, 2001, as requested in the petition.

However, the argument that drawings were filed on July 25, 2001, is not persuasive. The Office file is the official record of the papers originally filed in this application. A review of the official file reveals that no drawings were filed on July 25, 2001, because no such drawings are present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. Applicants failed to submit any evidence such as a date-stamped postcard receipt showing that applicants filed drawings on July 25, 2001.

The petition is granted to the extent that the application will be accorded the filing date of July 25, 2001, without any drawings.

Applicants have not submitted an executed oath or declaration and the $130.00 surcharge for its late filing with the present petition. Applicants must submit these items within **TWO MONTHS** of the date of this decision. Extensions of time are available.

Office finance records indicate that applicants filed a four-month extension of time to reply to the Notice of Incomplete. Extensions of time were not available. Furthermore, finance records indicate that the present petition fee was submitted in application No. 10/269,673. The petition fee is unnecessary. Accordingly, the $1,440.00 extension of time fee and the $130.00 petition fee will be refunded to Deposit Account No. 13-2725. The $710.00 basic filing fee and claim fees totaling $522.00 will be charged to Deposit Account No. 13-2725, as authorized.

Applicants may request a corrected filing receipt in application No. 10/269,673 to add the continuity information. The application file is being returned to the Office of Initial Patent Examination for correction of the filing date to July 25, 2001, and an indication in the Office records that "0" sheets of drawings were present on filing.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 16

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MOSER IP LAW GROUP
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SHREWSBURY NJ 07702

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AUG 14 2007
OFFICE OF PETITIONS

In re Patent No. **6651000**	:	
Issue Date: **11/18/2003**	:	
Application Number: **09/915219**	:	NOTICE
Filing Date: **07/25/2001**	:	
Attorney Docket Number: **GLBL 018**	:	

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

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 patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood
Douglas I. Wood
Attorney
Office of Petitions

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

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Frank van Diggelen; Charles Abraham; James W. Lamance

Application No./Patent No./Control No.: 6,651,000 Filed/Issue Date: November 18, 2003

Entitled: METHOD AND APPARATUS FOR GENERATING AND DISTRIBUTING SATELLITE TRACKING INFORMATION IN A COMPACT FORMAT

Global Locate, Inc. (Name of Assignee), a corporation (Type of Assignee: corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title, and interest (The extent (by percentage) of its ownership interest is _____ %)

in the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 012512, Frame 0789, or a true copy of the original assignment is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From:_____ To:_____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From:_____ To:_____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From:_____ To:_____
   The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

/Mirut P. Dalal/	September 6, 2007
Signature	Date
Mirut P. Dalal Reg. No. 44,052	312-775-8000
Printed or Typed Name	Telephone Number
Attorney/Agent of Record	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

JOSHUA D. ISENBERG
204 CASTRO LANE
FREMONT, CA 94539

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NOV 2 5 2002

OFFICE OF PETITIONS

In re Application of
Chuang Chia Lin
Application No. 09/915,232
Filed: July 24, 2001
Attorney Docket No. ONX-118

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed November 13, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on July 23, 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 March 6, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2817 for appropriate 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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

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FEB 01 2010

In re Application of James McNabb, et al. Application No. 09/915,287 Filed: July 27, 2001 Attorney Docket No. 007412.00314	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the request for a Corrected Filing Receipt which is being treated as a petition under 37 CFR 1.78(a)(3), filed October 7, 2009, 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 with the petition.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1), (2) and (3) above.

The issue fee in this case was paid on October 16, 2009. Therefore, it is conceivable that the application will issue before either the filing or the granting of a renewed petition under 37 C.F.R. §1.78(a)(3). In such case, submission of a certificate of correction (along with the $100

processing fee) will be required as a condition for granting the petition under 37 C.F.R. §1.78(a)(3).

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

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

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

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

Any questions concerning this matter may be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIW 12-01

Paper No. 6

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

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JAN 1 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Riggs et al.	:	
Application No. 09/915,301	:	ON PETITION
Filed: 27 July, 2001	:	
Attorney's Docket No. 1103.40051X00	:	

Receipt is acknowledged of the petition filed on 7 November, 2001, concerning the Patent and Trademark Office's handling of an application assigned application Serial No. 09/915,301.

The petition is dismissed.

The application was filed on 27 July, 2001. However, on 7 September, 2001, Initial Patent Examination Division mailed a "Notice" stating that the application had been accorded a filing date of 27 July, 2001, and advising applicants that Figure 1 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner explains that no figure was missing on 27 July, 2001. Instead, the application papers included three figures labeled Figures 1A-1C. The specification, however, incorrectly referred to Figure 1 rather than Figures 1A-1C.

It is obvious from the petition that no drawing was actually missing on 27 July, 2001. Rather, the specification incorrectly referred to Figure 1 as a result of the applicants' filing error. However, the "Notice" mailed on 7 September, 2001, was correct in stating that Figure 1 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

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

Petitioners submitted with the present petition a preliminary amendment correcting the references to Figure 1 in the specification.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 27 July, 2001.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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FELDER & STEINER LLP
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NEW YORK, NY 10022

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JUN 06 2005

OFFICE OF PETITIONS

In re Application of	:	
Riggs et al.	:	DECISION ON APPLICATION
Application No. 09/915,301	:	FOR
Filed: July 27, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 6065/1	:	
	:	

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT," filed February 28, 2005. Applicants request correction of the patent term adjustment of fifteen (15) days indicated in the notice of allowance. In part, applicants request reconsideration on the basis of the Office taking in excess of three years to issue the patent.

As it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for

seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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 sixty-six **(66)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 13, 2004, the Office mailed the initial 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 15 days. On February 28, 2005, applicants timely submitted an application for patent term adjustment (with required fee)[1]. Therein, applicants request reinstatement of 100 days of patent term adjustment on the basis that: 1) the term extension should not be reduced by 49 days because of applicants' submission of an Information Disclosure Statement after the first Office action; and 2) the term extension should not be reduced by 51 days for the filing of an a notice of appeal, as the notice was timely filed. In addition, applicants request that a further term extension should be granted; 1) pursuant to 35 USC 154(b)(1)(A)(i) for failure to provide a Notification under 35 USC 132 within fourteen months of the filing date; 2) pursuant to 35 USC 154(b)(1)(C) due to applicants' successful appeal; and 3) pursuant to 35 USC 154(b)(1)(B) for failure to issue the patent within 3 years of the filing date.

Applicants' arguments for reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance have been considered, but not found entirely persuasive. For the reasons set forth below, it is concluded that the correct initial determination of PTA at the time of the mailing of the notice of allowance is 66 days.

---

[1] Palm Records indicate that the issue fee was received in the Office on March 9, 2005.

Re Reinstatement of 100 days of PTA

The reductions of 49 days and 51 days associated with the filing of an Information Disclosure Statement (IDS) and of a notice of appeal, respectively, have been considered.

The reduction of 49 days has been found to be correct. 37 CFR § 1.704(c)(8), provides that:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

Furthermore, § 1.704(d) provides that:

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

It is undisputed that the IDS was filed on June 9, 2003, which is 49 days after applicants submitted their response to the first Office action. Moreover, the record does not support a conclusion that the IDS was expressly requested by the examiner. Thus, the IDS falls within § 1.704(c)(8) as an "other paper" not "expressly requested by the examiner."

The fact that the IDS was timely filed in compliance with 1.97(c) is not dispositive of whether the exception to § 1.704(c)(8) applies. In order for an IDS to fall within the

§ 1.704(d) exception, the only exception, it must be in compliance with 1.97 and 1.98. However, it must also include the statement "that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement." The IDS does not include the statement, and thus, does not fall within the exception set forth in § 1.704(d). The rules do not provide exceptions for IDSs falling within 1.704(c)(8), where the statement is deemed to be inapplicable. Accordingly, it is concluded that the entry of period of reduction of 49 days is proper.

On the other hand, the reduction of 51 days has been found to be incorrect. The record supports a conclusion that the notice of appeal (and fee) was originally filed on October 30, 2003. This was in response to, and within 3 months of, the letter mailed July 31, 2003, restarting the period for response to the final rejection[2]. Accordingly, the reduction of 51 days, pursuant to § 1.704(b), is not warranted.

Re Office delay in issuing a Notification under 35 USC 132 not later than fourteen months after the application filing date

A period of adjustment of 110 days has been accorded because the Office did not issue a first Office action until January 15, 2003, fourteen months and 110 days after the application filing date. However, applicants contend entitlement to an additional 197 days on the basis that the Office action mailed January 15, 2003, did not comply with 35 USC 132, and a corrected Office action was not mailed until July 31, 2003. Specifically, applicants argue that the Office action did not include the reasons for the rejection of claims "together with such information and references as may be useful in judging of the propriety of continuing the prosecution of this application."

Applicants' argument is not well taken. It is clear that the 21-page Office action mailed January 15, 2003, is an action issued as a result of examination conducted pursuant to 35

[2] It was determined that the Office action mailed July 11, 2003 was not mailed to a correct correspondence address.

U.S.C. 131. See also Comment 4, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, use of the January 15, 2003 date as the date for the first notification under 35 USC 132, and entry of a period of adjustment of 110 days is proper.

Re alleged Office delay due to applicants' successful appeal

Applicants request an extension of up to 409 days corresponding to the time period between the filing of the notice of appeal and the notice of allowance. Applicants state that it is not clear if the appeal was properly terminated at any time prior to the notice of allowance dated December 13, 2004, and reference FN1 on page 12 of their response filed November 23, 2004 (wherein applicants state that they would not agree to termination of the appeal). Alternatively, applicants request a patent term extension for the time period up to the Office action dated August 23, 2004 (316 days), the time period up to the withdrawn restriction requirement dated March 12, 2004 (122 days), or other appropriate time period.

Applicants' arguments have been considered, but are without merit. § 1.702(e) provides for a period of adjustment, as follows:

> Delays caused by successful appellate review. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued under a decision in the review reversing an adverse determination of patentability. If an application is remanded by a panel of the Board of Patent Appeals and Interferences, and a notice of allowance under Sec. 1.311 is mailed without further review by the Board of Patent Appeals and Interferences, without further amendment of the application, and without other action by the applicant, the remand shall be considered a decision by the Board of Patent Appeals and Interferences as that phrase is used in 35 U.S.C. 154(b)(1)(A)(iii) and a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(1)(C)(iii).

There was no decision by the Board of Patent Appeals and Interferences (or by a Federal court). Accordingly, entry of a period of adjustment based on delay caused by successful appellate review is not warranted.

CONCLUSION

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **sixty-six (66)** days.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

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

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

Enclosure: Copy of REVISED PAIR Screen

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Paper No.

BROWN, RAYSMAN, MILLSTEIN,
FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

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SEP 01 2005

OFFICE OF PETITIONS

In re Patent No. 6,915,268	:	
Riggs et al.	:	
Issue Date: July 5, 2005	:	DECISION ON REQUEST FOR
Application No. 09/915,301	:	RECONSIDERATION OF
Filed: July 27, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 6065/1	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 5, 2005. Patentees request reconsideration of the patent term adjustment indicated in the patent on the basis that the Office took in excess of three years to issue the patent.

The request for reconsideration of the patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred ninety-eight **(298)** days.

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 prior petition filed February 28, 2005, patentees requested in part that the patent term adjustment be reconsidered on the basis of the Office taking in excess of three years to issue the patent. By decision mailed June 6, 2005, patentees were advised that a decision on that portion of the request was being held in abeyance until after the actual patent date. Patentees were given two (2) months from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years, without payment of an additional fee.

On July 5, 2005, the application matured into U.S. Patent No. 6,915,268, with a revised patent term adjustment of 288 days. On July 5, 2005, patentees timely filed this request that the request on petition filed February 28, 2005 and held in abeyance be decided. Patentees agree that any patent term adjustment should be reduced by 6 days for applicant delay, but in effect, dispute the reduction of 49 days. Patentees request a net patent term extension of up to 337 days due to the failure to issue the patent within 3 years.

It is agreed that the instant patent issued 3 years and 343 days after its filing date. However, if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (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 110 and 11 days attributable to grounds specified in § 1.702(a)(1) and (2) overlaps with the 343 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 343 days.

Furthermore, patentees submit no basis for concluding that the reduction of 49 days is improper. In view thereof, it is concluded that the periods of reduction of 49 and 6 days at the time of the mailing of the notice of allowance both remain correct.

After the mailing of the notice of allowance, there was no applicant delay warranting entry of further periods of reduction.

In view thereof, the patent should have issued with a revised patent term adjustment of two hundred ninety-eight (298) days (343 - (49 + 6))

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **TWO HUNDRED NINETY-EIGHT (298)** days.

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

Kery A Fries
for

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

Enclosure: Copy of DRAFT Certificate of Correction

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

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SEP 2 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,891,175	:	
Issued: May 10, 2005	:	
Application No. 09/915,325	:	PATENT TERM ADJUSTMENT
Filed: July 27, 2001	:	
Atty. Dkt. No.: 862.C2315	:	

This is a decision on the "REQUEST FOR RECONSIDERATIPN OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed June 23, 2005.

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,891,175 on May 10, 2005. The instant request for reconsideration was timely filed June 23, 2005 in accordance with 37 C.F.R. § 1.705(d).

The patent issued with a PTA of 301 days. Applicant argues that the adjustment of 421 days for Office delays was improperly reduced 120 days in connection with the submission of a "Request for Corrected Notice of Allowability."

A review of the application reveals that an adjustment of 423 can be attributed to the Office[1]. The adjustment of 423 days was properly reduced two days in accordance with 37 CFR 1.704(b)[2].

The Office errantly reduced the adjustment 120 days in connection with the "MISCELLANEOUS INCOMING LETTER" filed March 31, 2004. A review of the official application file reveals that the March 31st 2004 submission was, as indicated by applicant, a request for corrected Notice of Allowability. The submission of this specific request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability" is not considered a failure to engage in reasonable

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[1] An adjustment of 215 days can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed in accordance with 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1); a further adjustment of 208 days can be attributed to the Office for failure to issue the patent within four months of payment of the issue fee in accordance with 37 C.F.R. §§ 1.702(a)(4) and 1.703(a)(4).

[2] The adjustment began June 13, 2004, the day after the date that is three months after the date that the Notice of Allowance was mailed, and ended June 14, 2004, the date of payment of issue fee.

efforts to conclude prosecution (or processing) within the meaning of 37 C.F.R. § 1.704(c)(10).

Thus, at the time of issuance, the patent was entitled to a PTA 421 days, as argued by applicant.

The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 421 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 421 days.

The required application fee of $200.00 has been charged to applicant's deposit account as authorized.

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

Kery Fries

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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

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

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FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of Starner et al. Application No. 09/915,371 Filed: July 27, 2001 Attorney Docket No. ICH1P006	: : : : :	ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 20, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the restriction requirement mailed March 22, 2002, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 23, 2002. A Notice of Abandonment was mailed on November 6, 2002.

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

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Estavillo et al. :
Application No. 09/915,403 :
Filed: July 27, 2001 :
For: **METHOD AND APPARATUS FOR JOB PREVIEW IN PRINTER DEVICE** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on March 26, 2003.

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

Petitioner does not meet requirements 2 and 4 above. John W. Ryan is not of record, and the Patent Office does not recognize withdrawal of a firm. No future correspondence has been indicated.

Accordingly, the request is **DENIED**.

All future communications from the Office will continue to be directed to the above listed address until a change of correspondence is specifically requested. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: WILMER, CUTLER & PICKERING
2445 M. STREET, NW
WASHINGTON, DC 20037

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Paper No. 5

MAY 2 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John W. Ryan
c/o Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, DC 20037-1420

In re Application of: Pierre Sauvage	)	
Application No. 09/915,404	)	
Filed: July 27, 2001	)	**DECISION ON REQUEST FOR**
For: DYNAMIC RESOURCE CONTROL	)	**WITHDRAWAL AS ATTORNEY**
IN A PROCESSING SYSTEM	)	

This is a decision on the Request To Withdraw from Representation filed March 25, 2003.

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

The request is **GRANTED**.

Because no request was made for a change in correspondence address all future communications from the United States Patent and Trademark Office (Office) ***will continue to be directed to the above-listed address*** until otherwise notified. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

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Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743

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DEC 06 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of
Jochen Bollaender, et al.
Application No. 09/915,408
Filed: July 26, 2001
For: HOLDING DEVICE FOR A BEVERAGE CONTAINER

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on September 27, 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 19, 2004, and supported by a statement under 37 C.F.R. 1.8(b)(3), by the person who signed the Certificate of Transmission.

☐ 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.

KJD/rwg: 12/01/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Allen et al.	:	
Application No. 09/915,417	:	DECISION ON REQUEST TO
Filed: July 27, 2001	:	WITHDRAW AS ATTORNEY
For: DYNAMIC GENERATION OF	:	
LINEARIZED HALFTONE MATRIX	:	

This is a decision on the request to withdraw as attorney/agent of record filed on March 26, 2003.

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

Petitioner has not met items (2) and (4) above. The undersigned, John W. Ryan, is not of record. Furthermore, the Patent Office does not recognize withdrawal of a firm.

Accordingly, the request is **DENIED**.

Future communications from the Office will continue to be directed to the above-listed address unless a change of correspondence is specifically requested. A courtesy copy is being sent to the address listed below.

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

cc: CAROL CLAYTON
WILMER, CUTLER, & PICKERING
2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,438	07/26/2001	Rabindranath Dutta	AUS920010422US1	7369

34533 7590 05/19/2008
INTERNATIONAL CORP (BLF)
c/o BIGGERS & OHANIAN, LLP
P.O. BOX 1469
AUSTIN, TX 78767-1469

EXAMINER
IWARERE, OLUSEYE

ART UNIT	PAPER NUMBER
3687	

MAIL DATE	DELIVERY MODE
05/19/2008	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.

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TECHNOLOGY CENTER 3600

INTERNATIONAL CORP (BLF)
c/o BIGGERS & OHANIAN, LLP
P.O. BOX 1469
AUSTIN TX 78767-1469

In re Application of:
Rabindranath Dutta et al.
Application No. 09/915,438
Filed: July 26, 2001
For: **METHOD, SYSTEM, AND COMPUTER PROGRAM PRODUCT FOR FACILITATING INTERNATIONAL CUSTOMS PLANNING**

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is in response to the petition filed on November 1, 2005 under 37 C.F.R. 1.144 requesting the withdrawal of the restriction requirement made in the Office Action of July 19, 2004.

The petition is **DISMISSED as moot**.

A review of the file reveals that the applicant submitted a request to withdraw said petition on June 13, 2006.

Any questions regarding this decision should be directed to Matthew S. Gart, Supervisory Patent Examiner, at (571) 272-3955.

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

WC/msg: 4/24/2008

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FEB 24 2004

#13

MATTHIAS KLEESPIES
AM BACHLE 8
D-87784 WESTERHEIM,
GERMANY

In re Application of	:
Matthias Kleespies	:
Serial No.: 09/915,469	: PETITION DECISION
Filed: May 21, 2001	:
Attorney Docket No.:	:

This is in response to the petition under 37 CFR 1.181, filed October 1, 2003, to withdraw the holding of abandonment 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 applicant in care of Collard & Roe, applicant's then appointed representatives, on December 31, 2002. A Power of Attorney was received April 7, 2003 which withdrew all previous powers and returned prosecution to applicant. A Notice of Abandonment was mailed to applicant on August 25, 2003, based on a perceived indication that applicants reply was untimely. Applicant states that a reply was filed by e-mail to the Office on March 30, 2003, and provides a copy of an Office generated return receipt showing receipt of the e-mail filed reply on March 30, 2003. A copy of the e-mail was placed in the file, however appears to have been accorded a receipt date of April 7, 2003, which is subsequent to the allowed time period for reply. This caused the examiner to deem the reply as late, as indicated on the Notice of Abandonment. Applicant's evidence shows that the examiner was in error. In view of this, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

As advice to applicant who appears to be prosecuting the application by himself at this time, it is highly advisable to utilize the services of a registered patent attorney in prosecuting the application. The Power of Attorney papers recently submitted cannot be accepted as neither of the individuals are registered to practice before the Office. A list of registered patent attorneys can be found on the Office web site noted above. Further the Office, due to changes in practice and processing of application papers, does not normally accept replies filed by e-mail. Replies may be filed by facsimile transmission or by mail at the **new address** listed above.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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JAN 0 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Laura A. Majerus
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, Ca 94306

In re Application of:
Jonathan E. Harper
Application No. 09/915,492
Filed: July 25, 2001
For: MESSAGE INTEGRATION FRAMEWORK FOR MULTI-APPLICATION SYSTEMS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 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 December 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.

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

cc: Michael Glenn, Esq.
GLENN PATENT GROUP
3475 Edison Way, Suite L
Menlo Park, CA 94025

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HOWREY SIMON ARNOLD & WHITE LLP
750 BERING DRIVE
HOUSTON, TX 77057

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OFFICE OF PETITIONS

In re Application of
Brent Keeth
Application No. 09/915,508
Filed: July 26, 2001
Attorney Docket No. 11762.0268.DVUS01

ON PETITION

This is a decision on the petition, filed July 16, 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 February 28, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

---

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

After receipt of the file in the Office of Petitions, the file will be forward to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

cc:

Kevin K. Johnson
P.O. Box 2550
Salt Lake City, Utah 84110-2550

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

HOWREY SIMON ARNOLD & WHITE LLP
750 BERING DRIVE
HOUSTON, TX 77057

In re Application of :
Brent Keeth, et al. :
Application No. 09/915,508 :
Filed: July 26, 2001 :
Attorney Docket No. 11762.0268.DVUS01 :

ON PETITION

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

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Kevin K. Johanson 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. Johanson 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. Johanson, 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 November 21, 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]

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

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

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2814 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

cc: Kevin K. Johanson
TRASK BRITT
P.O. Box 2550
Salt Lake City, UT 84110-2550

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KEVIN K. JOHANSON
TRASKBRITT, PC
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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OCT 1 2 2004
OFFICE OF PETITIONS

In re Application of :
Brent Keeth et al :
Application No. 09/915,508 :
Filed: July 26, 2001 :
Attorney Docket No. 11762.0268.DVUS01

ON PETITION

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

The petition is **GRANTED**.

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

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

This matter will be forwarded to Technology Center AU 2814 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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IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT 917/ BLDG. 006-1
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/21/2010

Applicant	: Cary Lee Bates	: DECISION ON REQUEST FOR
Patent Number	: 7577942	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/915,509	: OF WYETH
Filed	: 07/26/2001	:
		:

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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SMITH PATENT OFFICE
1901 PENNSYLVANIA AVENUE N W
SUITE 200
WASHINGTON DC 20006

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AUG - 1 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
KITA, KOUJI
Serial No.: 09/915,532
Filed: July 27, 2001
For: **IMAGE PROCESSING METHOD, IMAGE PROCESSING DEVICE, IMAGE PROCESSING PROGRAM, AND RECORDING MEDIUM FOR RECORDING IMAGE PROCESSING PROGRAM**

DECISION ON PETITION
TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(b)(2), filed, July 27, 2001 and resubmitted June 15, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 5 – 10, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition is ***GRANTED***.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include correction of the deficiency outlined above. The application will be held in the Technology Center for two months to await any request for reconsideration of this decision.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of

Sadot, et al. :

Application No. 09/915,609

: DECISION ON PETITION

Filed: July 26, 2001

:

Attorney Docket No. 501022-A-01-US

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 7, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on July 8, 2005. A Notice of Abandonment was mailed on December 1, 2005.

The amendment filed March 14, 2006, is noted.

The change in power of attorney filed March 14, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2100, GAU 2143 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper 092004

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE
ONE SOUTH MAIN STREET, SUITE 1300
DAYTON OH 45402-2023

SEP 9 2004

In re Application of
Jigish D. Trivedi
Application No. 09/915,658
Filed: August 21, 1997
Attorney Docket No. MIO024PA

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed May 28, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond to the non-final Office action within the shortened statutory period of three months from the mailing date of October 22, 2003.

Petitioner states that the non-final Office action was never received by applicant's representative and attests to the fact that a search of the file jacket and docket records indicates that the non-final Office action was not received. The petition is accompanied by a copy of the docket record for the application dated from February 12, 1998 through May 6, 2004.

A review of the written record indicates that the non-final Office action was returned by the United States Postal Service as undeliverable mail. Further, a review of the correspondence address of record and the correspondence address listed within the amendment filed on September 19, 2003, shows that the addresses are different. The correspondence address of record contains "Suite 500" and not "Suite 1300" as listed in the amendment. Moreover, the record does not show that the returned Office action was remailed.

MPEP § 707.13 states the Office policy with regards to returned Office actions. Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee

informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The failure of the examiner to ascertain the correct correspondence address and to remail the Office action was insufficient to hold the application abandoned.

Petitioner is reminded of the policy for a change of correspondence address. MPEP § 601.03 states: 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 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.

The application file does not indicate that a change of address has been filed in this case. The address of the petitioner is determined to be the correct correspondence address to which the Office action will be remailed. Any future correspondence will also be remailed to the petitioner's address.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action. The shorten statutory period for response set therein will be reset to run from the date the Office action is remailed. Extensions of time are available under 37 CFR § 1.136.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. None

LOUIS J. HOFFMAN, P.C.
14614 NORTH KIERLAND BOULEVARD, SUITE 300
SCOTTSDALE AZ 85254

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Lon B. Radin	:	
Application No. 09/915,662	:	DECISION ON PETITION UNDER
Filed: July 25, 2001	:	37 C.F.R. §1.59(b)
Title: SPATIAL POSITION	:	
DETERMINATION SYSTEM	:	

This is a decision on the petition filed December 15, 2004, pursuant to 37 C.F.R. §1.59(b), requesting that two pages which were submitted along with an information disclosure statement (IDS) be expunged.

The application was filed on July 25, 2001. On June 16, 2003, Petitioner submitted a Supplemental IDS. Along with the references which were submitted in conjunction with the IDS, Petitioner inadvertently included 2 pages which appear to be personal material, which is not related to the instant application. Petitioner requests that these two pages be expunged from "both the electronic and paper records[1]."

The petition is **GRANTED-IN-PART**.

37 C.F.R. §1.59 sets forth:

§ 1.59 Expungement of information or copy of papers in application file.
(a)
(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section.
(2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

1 Petition, page 1.

(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
(c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

The matter Petitioner wishes to have expunged does not form part of the original disclosure. Petitioner has included the $200 fee, and has established to the satisfaction of the Director that the expungement of this information is appropriate.

As such, the electronic document which contains these two pages has been closed in the Office's Image File Wrapper software viewing program. The paper documents will not be removed from the physical file however, as the Office does not remove papers from paper files which have been scanned.

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

The general phone number for the Office of Petitions, which should be used for status requests, is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

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Paper No. 7

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

George B. F. Yee
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of:
Yoshihito NAKAGAWA et al.
Application No. 09/915,692
Filed: July 25, 2001
For: STORAGE-RELATED ACCOUNTING SYSTEM AND METHOD OF THE SAME

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 08 March 2004, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR §1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

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

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

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

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 4

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

MAIL

DEC 04 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Ji Zhang et al
Application No.: 09/915,697
Filed: July 25, 2001
For: **EFFICIENT METHODS OF PERFORMING MOTION COMPENSATION BASED DECODING AND RECODING OF COMPRESSED VIDEO BITSTREAMS**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed November 5, 2002.

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

The signer of the petition, William J. Plut, is not appointed as an attorney or agent of record since the petitioner's limited recognition under 37 CFR 10.9(b) expired June 10, 2002.
For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will continue to be directed to the above-listed address unless the Office receives proper notification of a change in Power of Attorney and/or correspondence address.

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

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STEPHAN A. PENDORF
PENDORF & CUTLIFF
P.O. BOX 20445
TAMPA FL 33622-0455

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JUL 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Leslie C. Smith et al	:	
Application No. 09/915,716	:	ON PETITION
Filed: July 26, 2001	:	
Attorney Docket No. MO-6534 MD-00-103-HR	:	

This is a decision on the petition, filed July 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 June 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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.

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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).

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

The examiner of Technology Center AU 1751 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

cc:
PENDORF & CUTLIFF
5111 MEMORIAL HIGHWAY
TAMPA, FL 33634-7356

PET DEC

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PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	09/915,727
Filing Date	07/26/2001
First Named Inventor	Ralph J. Locke
Art Unit	1762
Examiner Name	Eric B. Fuller
Attorney Docket Number	CNI-100-C

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved 5/16/05
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 48980

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Client has not provided us with instructions regarding a response to the Office Action of January 11, 2005, nor has the client provided us with payment for this work.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm *or* Individual Name	THE MACKINAC GROUP, INC., c/o Mr. Rob Smith, CNI, Inc.				
Address	1451 Lincoln				
City	Madison Heights	State	Michigan	Zip	48071
Country	US				
Telephone	(248) 585-7700	Fax	(248) 585-5800		
Signature					
Name	Andrew R. Basile	Registration No.	24753		
Date	March 11, 2005	Telephone No.	(248) 649-3333		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 272400
FORT COLLINS, CO 80527-2400

COPY MAILED

MAR 17 2004

OFFICE OF PETITIONS

In re Application of
Hierro et al.
Application No. 09/915,739
Filed: July 26, 2001
Attorney Docket No. 60003207-2

ON PETITION

This decision concerns the March 9, 2004 petition under 37 CFR 1.137(b) to revive the above-referenced application.

The petition is **GRANTED.**

The application was filed with an unsigned declaration.

On September 4, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, setting forth an extendable 2-month period for submitting a proper oath or declaration. No response was received on or before November 4, 2001, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on November 5, 2001.

The instant petition encloses a signed declaration; authorizes the USPTO to charge the $1,330 petition fee and the $130 surcharge for late filing of a proper oath/declaration to Deposit Account No. 08-2025; and states that the entire delay in filing the declaration from its due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted. The application is now complete.

In addition, the practitioner signing the petition uses a correspondence address different from that in the USPTO record. While a courtesy copy of the decision is being sent to this practitioner, all future correspondence on this application will be mailed to the current address-of-record unless the USPTO is properly instructed otherwise.

The application is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero & Perle, LLP
One Landmark Square, 10th Floor
Stamford, CT 06901-2682

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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MAIL

Paper No. 5

AUG 2 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BRUCE E. GARLICK
P.O. Box 160727
Austin TX 78716-0727

In re Application of
Gary S. Huff
Application No.: 09/915,743
Filed: July 26, 2001
For: METHOD AND APPARATUS FOR PERFORMING WIRE SPEED AUTO-NEGOTIATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed February 28, 2002, to make the above-identified application special.

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

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;

(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The above requirements are met and therefore 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 examiner for expedited prosecution.

Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
703-305-4711

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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SEP 2 0 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yajun Guo et al :
Application No. 09/915,746 :
Filed: July 26, 2001 :
Attorney Docket No. 532732000101 :

This is a decision on the petition, filed September 11, 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 May 23, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 1643 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 22 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of	:	
Yajun Guo, et al.	:	
Application No. 09/915,746	:	DECISION ON PETITION
Filed: July 26, 2001	:	TO WITHDRAW
Attorney Docket No. 532732000101	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 10, 2007.

The request is **APPROVED**.

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

The request was signed by Peng Chen on behalf of all attorneys of record who are associated with this application.

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

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

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

There are no pending office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: OXCOMAX ACQUISITION CORP.
2223 AVENIDA DE LA PLAYA
SUITE 300
LA JOLLA, CA 92037

cc: BING AI, ESQ.
FISH & RICHARDSON, P.C.
12390 EL CAMINO REAL
SAN DIEGO, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/915,746	07/26/2001	Yajun Guo	532732000101

CONFIRMATION NO. 1834

OC000000023908216

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 05/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/10/2007.

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

April McQueen

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Yajun Guo	: DECISION ON REQUEST FOR
Patent Number	: 7666609	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/915,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **803** 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. 9

MAIL

JUN 6 - 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON P.C.
500 ARGUELLO STREET, SUITE 500
REDWOOD CITY CA 94063

In re Application of
Ryabov et al.
Application No. 09/915,754
Filed: July 27, 2001
For: FINGERPRINT IMAGING DEVICE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 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 is **GRANTED.**

All attorneys associated with Customer No. 26,181 are granted the request for withdraw of attorney/agent except William J. Egan, III, who is specifically requested not to be withdrawn.

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

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

cc: BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : MAY 24, 2007

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No.: 09915762 Patent No.: 6700794B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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: _____

Glenn A. Rollins
SPE

2841
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 22 2003

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

Thomas Hoxie
Novartis Corporation
Patent and Trademark Department
564 Morris Avenue
Summit, NJ 07901

Paper No. #6

In re Application of Courtney F. Morgan et al Serial No. : 09/915,773 Filed : July 26, 2001 For : Rollable Intraocular Lens Having Reduced Thickness	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's request filed March 10, 2003 (certificate of mailing dated February 25, 2003), to review the holding of abandonment mailed January 31, 2003, for failure to respond to the Office action mailed July 2, 2002. There is no fee required for this petition.

It is noted that a proper response was timely received July 24, 2002 as is evidenced by the copy of a PTO stamped receipt submitted by applicant. Further proof of the timely receipt of the response is a copy, submitted by requester, of a paper titled Request for Substitute Papers mailed by the Office to applicants on August 8, 2002 indicating receipt of the papers in question but requesting a copy of the papers as the received papers were no longer in condition to become part of the permanent records of the United States Patent and Trademark Office due to the United States Postal Service sanitation process. Submitted with the instant request are a copy of the response received July 24, 2002 and a statement from petitioner indicating that the copy is a complete and accurate copy of the papers in question

In view of the above, the Notice of Abandonment mailed January 31, 2003, is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed July 24, 2002.

Summary: Holding of Abandonment Withdrawn.

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

ak/05/05/03

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United States Patent and Trademark Office
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Paper No. 4

John G. Rauch
Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

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MAR 1 8 2002

OFFICE OF PETITIONS

In re Application of :
Soulanille, et al. :
Application No. 09/915,801 :
Filed: July 26, 2001 :
Attorney Docket No. 9623/338 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.183, originally filed on July 26, 2001, to waive 37 CFR 1.52(e).

When a compact disc has been submitted as part of an application, one is required to list the files on the disc in the application and on the transmittal sheet. In the instant case, applicant seeks a waiver of the requirement and seeks to submit such a listing on compact disc rather than in the application and on the transmittal sheet.

The petition is **granted**.

Petitioner has demonstrated that a listing of the files would be over 1,000 pages long. Petitioner has submitted a "table" on the compact disc listing each file on the disc by file name, file size, and creation date.

Petitioner should note that petitioner, and not the Office, is responsible for identifying and correcting any difference between the file list on the compact disc and the files actually on the compact disc.

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

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

John G. Rauch
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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OCT 21 2004

OFFICE OF PETITIONS

In re Application of	:	
Soulanille et al.	:	DISMISSAL OF PETITION
Application No. 09/915,801	:	UNDER 37 CFR 1.78(a)(3)
Filed: July 26, 2001	:	
Attorney Docket No. 9623/338	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 12, 2004, to accept an unintentionally delayed claim for the benefit of a prior application set forth in the concurrently filed amendment.

The petition is **dismissed**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on November 26, 2001. The priority claims at issue were not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3).

37 CFR 1.78(a)(3) states,

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
(ii) The surcharge set forth in § 1.17(t); and
(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section 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.

Petitioner has failed to satisfy (i) above. Specifically, a *proper* amendment adding the priority claim has not been filed. Rule 78 may not be used to incorporate by reference material which was not previously incorporated by reference. In this case, the amendment seeks to incorporate by reference the contents of application no. 09/872,737.

The petition cannot be granted until a proper amendment is filed. Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

The file will now be forwarded to the examiner to determine if the proposed amendment raises new issues which will require further consideration and/or search.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John G. Rauch
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of
Soulanille et al.
Application No. 09/915,801
Filed: July 26, 2001
Attorney Docket No. 9623/338

DISMISSAL OF PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 4, 2004, to accept an unintentionally delayed claim for the benefit of a prior application set forth in the concurrently filed amendment.

The petition is **dismissed**.

A *final* Office action was mailed on January 13, 2004.

A reply to the Office action, payment for a three month extension of time, and a petition under 37 CFR 1.78(a)(3) were filed on July 12, 2004.

In general, the examiner is the party who determines if an amendment after a final Office action will be entered.

The previous decision stated, "The file will now be forwarded to the examiner to determine if the proposed amendment raises new issues which will require further consideration and/or search."

The examiner has determined the July 12, 2004 amendment failed to *prima facie* place the application in condition for allowance because the amendment raised new issues that would require further consideration.

The application is abandoned as of July 14, 2004. Therefore, the petition under 37 CFR 1.78(a)(3) cannot be granted at this time.

Petitioner may wish to file a petition under 37 CFR 1.137 to revive the application along with a Request for Continued Examination.

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Attached: Advisory Action

Advisory Action	Application No.	Applicant(s)	
	09/664,085	BENNETT ET AL.	
	Examiner	Art Unit	
	Doug Hutton	2179	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

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. ONLY CHECK THIS BOX 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).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☒ The proposed amendment(s) will not be entered because:

(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: *See Continuation Sheet*.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8.☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

Continuation of 2. NOTE: As stated in the Advisory Action mailed on 3 May 2004, Claim 55 recites limitations that encompass a scope the examiner has yet to consider. Thus, new Claim 55 raises new issues that would require further consideration and a new search.

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BRINKS HOFER GIBSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of
Soulanille et al.
Application No. 09/915,801
Filed: July 26, 2001
Attorney Docket No. 9623/338

Decision on Petitions

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2005, to revive the above-identified application. This is also a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 7, 2005, to accept the unintentionally delayed priority claims set forth in a concurrently filed amendment.

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

The petition under 37 CFR 1.78(a)(3) is **granted**.

The petition under 37 CFR 1.137(b)

A final Office action was mailed January 13, 2004.

A petition under 37 CFR 1.78(a)(3) was filed July 12, 2004, along with payment for a 3 month extension of time.

The petition was dismissed on October 21, 2004, because the amendment filed July 12, 2004, impermissibly sought to incorporate by reference the contents of application no. 09/872,737.

The decision stated, "The file will now be forwarded to the examiner to determine if the proposed amendment raises new issues which will require further consideration and/or search."

Prior to the Office of Petitions receiving a response from the examiner, a renewed petition and new amendment were filed November 4, 2004.

The examiner considered the November 4, 2004 amendment and determined the amendment failed to *prima facie* place the application in condition for allowance because the amendment raised new issues that would require further consideration.

Since a proper reply was not timely filed to the final Office action, the application was deemed abandoned as of midnight on July 13, 2004.

A decision stating the application was abandoned and dismissing the petition under 37 CFR 1.78(a)(3) was mailed March 9, 2005.

A Notice of Abandonment was mailed April 7, 2005.

The instant petition under 37 CFR 1.137(b) requests revival of the application.

Petitioner has submitted the required petition fee. Petitioner has submitted a reply to the final Office action in the form of a Request for Reconsideration and amendment. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of the instant petition was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition under 37 CFR 1.78(a)(3)

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on November 26, 2001. The priority claim at issue was not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3) which allows one to make late priority claims if certain criteria are satisfied.

Per 37 CFR 1.78(a)(3), a petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(1) The reference required by 37 CFR 1.78(a)(2), 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 paragraph (a)(2)(ii) of this section 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.

Petitioner has satisfied the requirements listed above.

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed applications, but is only a determination that the Office will allow petitioner to file an untimely claim for priority. The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

A corrected Filing Receipt, which includes the priority claims, accompanies this decision on petition.

A fee of $1,370 was improperly charged to petitioner's deposit account for the petition under 37 CFR 1.78(a)(3). However, the petition was previously paid on July 14, 2004. Therefore, the $1,370 fee will be credited back to petitioner's deposit account.

Summary:

The petition under 37 CFR 1.137(b) is granted.

The petition under 37 CFR 1.78(a)(3) is granted.

This application is being forwarded to Technology Center Art Unit 2161 for appropriate action on the amendment and Request for Continued Examination. **The examiner should consider the priority claims and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed applications.**

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Frances Hicks
Petitions Examiner
Office of Petitions

Attached: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 6, 2006

TO SPE OF : ART UNIT 2142 (S.P.E. Andrew Caldwell)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/915846 Patent No.: 6,996,601

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**.

Please see the claim dependency.

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Andrew Caldwell — **SPE**

2142 — **Art Unit**

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

In re Application Stomp et al. Application No. 09/915,873 Filed: July 26, 2001 Attorney Docket No. 40989/237225(9280-12)	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "PETITION FOR REINSTATEMENT OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(c)," filed June 9, 2004. Applicants request that the patent term adjustment be recalculated and 49 days of patent term be reinstated.

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 one hundred twenty-three **(123)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 2, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 74 days. On June 9, 2004, applicants timely[1] submitted this application for patent term adjustment. Applicants request reinstatement of the period of reduction of 49 days for delay in filing a reply to the Notice to File Missing Parts of Application mailed September 13, 2001. Applicants point out that the response was mailed with a certificate of mailing on November 13, 2001 but was not received by the Patent Office until either January 16, 2002 (according to their return postcard) or January 31, 2002 (according to PAIR). Citing the Official Gazette dated January 15, 2002, applicants state that, in spite of all due care, the applicant was unable to reply to the Office action within three months of the date of mailing. Further,

[1] As of the mailing of this decision, the period for paying the Issue Fee continues to run. The fee is due by September 2, 2004.

pursuant to the OG notice, applicants request waiver of the fee under § 1.18(e).

The OG Notice dated January 15, 2002 (1254 OG 92), provided that:

> If a reply to an Office action or notice was 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), and the applicant is otherwise entitled to patent term adjustment (or additional patent term adjustment) but for the fact that there was a reduction of such patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b) due to the receipt of such reply by the Office more than three business days after the date indicated on the certificate of mailing, the Office will consider the USPS mail situation discussed in this notice to constitute a sufficient showing that, in spite of all due care, the applicant was unable to reply to the Office action or notice within three months of the date of mailing of the Office action or notice. In this situation, the Office will, subject to the conditions set forth below, reinstate a period equal to the period beginning on the date that is four business days after the date indicated on the certificate of mailing on the reply and the date of receipt (37 CFR 1.6) of the reply in the Office up to a maximum of three months.

The relevant reply to the Notice mailed September 13, 2001 was mailed on November 13, 2001, as shown by the certificate of mailing under § 1.8 thereon. However, the patent term adjustment was reduced because the reply was not received in the Office until January 16, 2002. In addition, the Office entered the date of January 31, 2002 as the date the application was considered complete in response to the Notice and used that later date in calculating the 49 day reduction of patent term adjustment.

Thus, it is concluded that the Notice dated January 15, 2002 is applicable to this situation; in spite of all due care, the applicants were unable to reply to the Notice to File Missing Parts within three months of the date of mailing of the notice. It is further concluded that applicants have met the other conditions set forth in the Notice for reinstatement of patent term. In this instance, the period of reinstatement begins on November 17, 2001, the day that is four <u>business</u> days after November 13, 2001, and ends on January 16, 2002, the date of receipt of the reply[2]. This period constitutes more than 49 days, and thus, applicants are entitled to reinstatement of the entire period of reduction of 49 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one hundred twenty-three (123) days.

---

[2] The Office erred in calculating the reduction using the date of January 31, 2002, rather than January 16, 2002. If the entire reduction were not being reinstated, correction of this error would otherwise warrant a revision of the patent term adjustment.

It is further noted that applicants have met the requirements set forth in the Notice for waiver of the fee for consideration under 37 CFR § 1.705.

The Office will forward the file to the Office of Patent Publication so that the patent can be issued in a timely manner.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

Karin A. Ferriter for

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

Attachment: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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AKIN GUMP STRAUSS HAUER & FELD
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103-7013

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MAY 1 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kohei Suzuki et al :
Application No. 09/915,946 :
Filed: July 26, 2001 :
Attorney Docket No. 10059-391US(P25827-01) :

This is a decision on the petition, filed May 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1745 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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JAMES RAY & ASSOCIATES
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MONROEVILLE, PA 15146

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OCT 3 1 2001

OFFICE OF PETITIONS

In re Application of
Mitsch et al
Application No. 09/915,960
Filed: July 27, 2001
Attorney Docket No. WAB 01067

DECISION DISMISSING PETITION

This is a decision on the paper filed September 14, 2001, which is being treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of July 26, 2001, rather than the presently accorded filing date of July 27, 2001.

Petitioners allege that the application was deposited in Express Mail service on July 26, 2001. The petition is accompanied by a copy of Express Mail receipt No. EL729577071US (the same Express Mail number found on the original application papers). However, the legibility of the copy of Express Mail receipt No. EL729577071US is such that the USPS "date-in" entry cannot be positively identified.

A review of USPS records conducted at the U.S. Patent and Trademark Office prior to this decision using "USPTO's USPS Express Mail Information Database" reveals that the date and time the package identified by Express Mail receipt No. EL729577071US was accepted by the USPS is *July 27, at 9:34 a.m.* A copy of a printout of the relevant USPS records is being provided with this decision.

Paragraph (a) and 37 CFR 1.10 states that:

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

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can

show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

A grantable petition under 37 CFR 1.10(c) must 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 petition filed September 14, 2001 is not accompanied by the evidence required by the rule. Accordingly, the petition is dismissed.

The application is being returned to Technology Center Art Unit 3613 for examination in due course with the filing date of July 27, 2001.

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

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

enclosure: Copy of USPTO's USPS Express Mail Information

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL J URBANO ESQ
1445 PRINCETON DRIVE
BETHLEHEM PA 18017-9166

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OFFICE OF PETITIONS

In re Application of	:	
George Earl Peterson	:	
Application No. 09/915,963	:	ON PETITION
Filed: July 26, 2001	:	
Attorney Docket No. 18	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2009, to revive the above-identified application.

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

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

The above application became abandoned for failure to timely seek judicial review of the decision by the Board of Patent Appeals and Interferences, mailed June 22, 2009. Pursuant to 37 CFR 1.304, applicants had two months to judicial review. No review having been sought, the application became abandoned on August 23, 2009. The Office mailed a Notice of Abandonment on September 28, 2009.

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).

With the instant petition, applicants have filed an Amendment. An Amendment is not a proper reply in the instant situation, as prosecution is closed. The Board decision, sustaining the Examiner in full, did not set forth any new grounds of rejection under 37 CFR 41.50(b). Applicants may file an RCE to have the Amendment entered. See MPEP 1214.07.

No additional petition fee is due on renewed petiiton.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MICHAEL J URBANO ESQ
1445 PRINCETON DRIVE
BETHLEHEM PA 18017-9166

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OFFICE OF PETITIONS

In re Application of	:	
George Earl Peterson	:	
Application No. 09/915,963	:	ON PETITION
Filed: July 26, 2001	:	
Attorney Docket No. 18	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 2, 2010, to revive the above-identified application.

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

The above application became abandoned for failure to timely seek judicial review of the decision by the Board of Patent Appeals and Interferences, mailed June 22, 2009. Pursuant to 37 CFR 1.304, applicants had two months to judicial review. No review having been sought, the application became abandoned on August 23, 2009. The Office mailed a Notice of Abandonment on September 28, 2009. Applicant filed an Amendment, together with a petition to revive, on September 25, 2009. However, the petition was dismissed in a decision mailed on December 3, 2009. The decision explained that the Amendment could not be entered as prosecution was closed, and suggested that Applicant file an RCE to have the Amendment entered.

With the instant petition, petitioner made the proper statement of unintentional delay and submitted the required reply in the form of an RCE (together with an Amendment). The required petition fee was previously paid on September 25, 2009.

The application is being forwarded to Group Art Unit 2821 for consideration of the RCE filed February 2, 2010.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. 11

HEWLETT-PACKARD COMPANY
Intellectual Property Adminstration
P.O. Box 272400
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of
Beged-Dov, Gabriel
Application No. 09/915,978
Filed: July 25, 2001
Attorney Docket No. 10014078-1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 7, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed December 12, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 13, 2002.

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

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH, PA 15222-2613

Mail Date: 04/21/2010

Applicant	: Robert S. Stewart	: DECISION ON REQUEST FOR
Patent Number	: 7587350	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/915,993	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1437** 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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IBM CORP (AP)
C/O AMY PATTILLO
P. O. BOX 161327
AUSTIN TX 78716

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OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	
Application No. 09/915,995	:	ON PETITION
Filed: July 26, 2001	:	
Attorney Docket No. AUS920010397US1	:	

This is a decision on the petition under 37 CFR 1.181, filed October 20, 2005, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned for failure to submit the issue fee, the publication fee, and a completed PTOL-85b within three months of the mailing of the April 27, 2005 Notice of Allowance and Fee(s) Due. The application became abandoned on July 28, 2005. A Notice of Abandonment was mailed on September 21, 2005.

It is noted that the Notice of Allowability allowed only claims 1-28 and was silent as to claims 29-59, also present in the application. Petitioners contacted the examiner of record on June 5, 2005 and informed him of the situation. Petitioners assert the application is not abandoned because the examiner of record stated in the June 8, 2005 Interview Summary that he would reopen the application and examine all the pending claims.

Examiner Meky stated on the record that he would reopen prosecution, but unfortunately, he did not do so prior to July 27, 2005. The Office did not withdraw the requirements listed in the Notice of Allowance and Fee(s) Due. Applicants did not satisfy the requirements listed in the Notice of Allowance and Fee(s) Due. The application did become abandoned.

Petitioners are strongly encouraged to file a petition to revive under the unavoidable standard of 37 CFR 1.137(a).

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

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

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

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

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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NOV 07 2006
OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	
Application No. 09/915,995	:	ON PETITION
Filed: July 26, 2001	:	
Attorney Docket No. AUS920010397US1	:	

This is a decision on the petition under 37 CFR 1.137(a), filed August 23, 2006, requesting revival of the above-identified application.

This application was held abandoned for failure to submit the issue fee, the publication fee, and a completed PTOL-85b within three months of the mailing of the April 27, 2005 Notice of Allowance and Fee(s) Due. The application became abandoned on July 28, 2005. A Notice of Abandonment was mailed on September 21, 2005.

Petitioners have shown that they delay in responding to the April 27, 2005 Notice of Allowance and Fee(s) Due was unavoidable because petitioners relied on the examiner's statement in a June 8, 2005 Interview Summary that prosecution would be reopened. Despite such a statement in the record, the examiner did not reopen prosecution and the period to respond to the April 27, 2005 Notice expired.

Pursuant to petitioner's authorization, deposit account no. 09-0447 will be charged the required $1,400.00 issue fee and the $300.00 publication fee.

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

After the mailing of this decision the application will be forwarded to Publications Division for consideration of the formal drawings filed on August 23, 2006 and processing into a patent.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-29-05

TO SPE OF : ART UNIT 1725

09916000

SUBJECT : Request for Certificate of Correction on Patent No.: 6860315

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:
OK to enter

SPE

1725
Art Unit

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ALEXANDRIA, VA 22313-1450
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APR 13 2004

FOLEY AND LARDNER
ONE MARITIME PLAZA, SIXTH FLOOR
SAN FRANCISCO, CA 94111-3404

#11

In re Application of	:
Gregory M. Fahy	:
Serial No.: 09/916,032	: PETITION DECISION
Filed: July 26, 2001	:
Attorney Docket No.: 074066-0105	:

This is in response to the petition under 37 CFR 1.181, filed December 4, 2003, for withdrawal of abandonment based on non-receipt of an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that this application was filed with a correspondence address of: KNOBBE MARTENS OLSON & BEAR, 620 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA 92660. The Office mailed a Notice of Missing Parts to applicant at that address on August 13, 2001, requiring submission of a signed declaration. The declaration was filed on October 11, 2001, and appointed FOLEY AND LARDNER at the above address as attorneys of record. Through inadvertence this change of correspondence address was not recorded when processing the application. Thus the first Office action was mailed to the Knobbe Martens address on December 20, 2001. A reply was received on June 20, 2002, with a three month extension of time and a notation of the correct address. The examiner mailed a new Office action to the old address on September 26, 2002, setting a one month shortened statutory period for reply. When no reply was received a Notice of Abandonment was mailed to the same address. The Office erred in failing to record the correct correspondence address. In view of the Office error in not utilizing the correct correspondence address, the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

As applicant has obtained a copy of the Office action of September 26, 2002, and provided a reply, the application will be forwarded to the examiner for consideration thereof.

The correct correspondence will be entered in the Office's electronic data base.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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TIMOTHY J. MARTIN, PC
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

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APR 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Juzer Jangbarwala	:	
Application No. 09/916,062	:	NOTICE
Filed: July 26, 2001	:	
Attorney Docket No. 1777	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

The application file is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 14

Paul F. Stutz
520 Madison Avenue
Spitzer Building, Suite 964
Toledo, OH 43604

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JAN 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Staffan I. Kaempe	:	
Application No. 09/916,091	:	ON PETITION
Filed: July 26, 2001	:	
Attorney Docket No. : P-954-A-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 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 Notice of Non-Compliant Amendment filed January 2, 2003. The Notice set a reply period of One (1) Month or Thirty (30) Days from the mailing date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the above-identified application became abandoned on February 3, 2003.

The application file is being forwarded to Technology Center AU 3748 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

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NOV 23 2009

OFFICE OF PETITIONS

Ansel M. Schwartz
201 N. Craig St., Suite 304
Pittsburgh PA 15213

In re Patent No. 7,046,673	:	
Ganmukhi, et al.	:	
Issue Date: May 16, 2006	:	DECISION ON
Application No. 09/916,096	:	REQUEST FOR RECONSIDERATION
Filed: July 26, 2001	:	OF
Atty Docket No. FORE-9CONT II	:	PATENT TERM ADJUSTMENT

This is a decision on the correspondence entitled, "37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION FOR USPTO AND/OR APPLICANT MISTAKE," filed November 20, 2008. The correspondence, with respect to the request to alter the revised patent term adjustment, will be treated as a petition under 37 CFR 1.705(d). Pursuant to petitioner's authorization, deposit account no. 50-1379 will be charged the required $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. Patentees request that the revised patent term adjustment indicated on the patent be corrected from seven hundred seventy-eight (778) days to nine hundred and two (902) days. The present constructive petition appears to be filed on behalf of the assignee of record.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

On May 16, 2006, the above-identified application matured into U.S. Patent No. 7,046,673 with a revised patent term adjustment of 778 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued.

A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 20, 2008.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 16, 2006, the date two months from the date this patent issued, May 16, 2006.

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated

1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and 37 CFR 1.323 or 35 U.S.C. 255 and 37 CFR 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

As a one time courtesy, a copy of this decision will be mailed to the address listed on the petition/proposed certificate of correction. If a change in correspondence address is desired, appropriate documents should be filed.

After the mailing of this decision, the application will be referred to Certificates of Correction Branch for consideration of the remaining request in the proposed Certificate of Correction filed on November 20, 2008.

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a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

CC: SIDNEY L. WEATHERFORD
6300 LEGACY, MS EVR 1-C-11
PLANO TX 75024

UNITED STATES 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

ACCENTURE C/O MORRISON & FOERSTER
755 PAGE MILL ROAD
PALO ALTO CA 94304

COPY MAILED

AUG 07 2003

OFFICE OF PETITIONS

In re Application of Perras, et al. Application No. 09/916,132 Filed: July 25, 2001 Attorney Docket No. 426882000700	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed May 6, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on July 24, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

Applicant filed a "Request to Rescind Previous Nonpublication Request" on July 25, 2002 (Certificate of Mailing under 37 CFR 1.8 dated July 19, 2002, however, the rescission request was not eligible for the benefits of 37 CFR 1.8.[1]). The rescission request did not provide notice of the PCT filing. Accordingly, as the rescission was not made until after the filing of the PCT application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the PCT filing not later than forty-five days after the date the PCT application was filed to avoid abandonment of the application.[2]

---

[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

[2] See id.

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

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth a projected publication date of November 13, 2003, accompanies this decision on petition.

The application is being forwarded to Technology Center 3600, Group Art Unit 3623, for examination.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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JUL 15 2004

Office of the Director
Group 3600

Accenture C/O Morrison & Foerster
755 Page Mill Road
Palo Alto, CA 94304

In re application of:
Francis A. Perras Jr., et al.
Application No. 09/916,132
Filed: July 25, 2001
For: AUTOMATED TOOL SET FOR IMPROVING OPERATIONS IN AN ECOMMERCE BUSINESS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 14, 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 is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), 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.

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

KJD/vdb: 7/12/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 15 2004

Office of the Director
Group 3600

Accenture C/O Morrison & Foerster
755 Page Mill Road
Palo Alto, CA 94304

In re application of:
Francis A. Perras Jr., et al.
Application No. 09/916,132 :
Filed: July 25, 2001 :
For: AUTOMATED TOOL SET FOR IMPROVING OPERATIONS IN AN ECOMMERCE BUSINESS :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 14, 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 is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), 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.

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

KJD/vdb: 7/12/04

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

Hickman Palermo Truong & Becker, LLP
1600 Willow Street
San Jose, California 95125-5106

MAILED

AUG 0 1 2002

Technology Center 2100

In re Application of:
Allen Michael Salomon, et al.
Application No. 09/916,139
Filed: July 25, 2001
For: UNIFIED TRUST MODEL PROVIDING SECURE IDENTIFICATION, AUTHENTICATION AND VALIDATION OF PHYSICAL PRODUCTS AND ENTITIES, AND PROCESSING, STORAGE AND EXCHANGE OF INFORMATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed July 9, 2002 and the Supplemental Request To Withdraw filed July 29, 2002.

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

The request is **GRANTED**.

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

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

cc: Didier Perez
Authentisure, Inc.
601 Montgomery Street, Suite 325
San Francisco, CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT DEPARTMENT
MACROVISION CORPORATION
2830 DE LA CRUZ BLVD.
SANTA CLARA CA 95050

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of :
Richard A. A. Haylen :
Application No. 09/916,146 : DECISION ON PETITION
Filed: July 26, 2001 :
Attorney Docket No. 204 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 4, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 4, 2008. Accordingly, the date of abandonment of this application is September 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

In regard to item (3), 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.

Also, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this

decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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J. SCOTT DENKO
ANDREWS & KURTH LLP
111 CONGRESS AVE., SUITE 1700
AUSTIN TX 78701

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MAY 25 2006
OFFICE OF PETITIONS

In re Application of :
Michael R. Buckmaster et al. :
Application No. 09/916,148 : ON PETITION
Filed: July 25, 2001 :
Attorney Docket No.: **120073.415D1** :

This is a decision on the petition filed December 5, 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 April 5, 2005. 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 July 6, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on August 18, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and

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

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

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

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

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

will be credited to counsel's deposit account no. 50-3534.

This matter is being referred to Technology Center 2123 for appropriate action on the amendment filed December 5, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,702,670	2004-03-09	09/916,169	2001-07-25	45167/FLC/L468

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Larry Zeidman/	Date (YYYY-MM-DD)	2008-07-02
Name	Larry Zeidman		
Enter Reel and Frame Number		Remove	
Reel Number	012039	Frame Number	0888
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6702670
Issue Date: March 9,2004
Application No. 09916169
Filed: July 25,2001
Attorney Docket No. 45167/FLC/L468

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

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

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Steinberg & Raskin, P.C.
15th Floor
1140 Avenue of the Americas
New York, NY 10036-5803

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OFFICE OF PETITIONS

In re Application of	:
BARANOFF	:
Application No. 09/916,178	: DECISION GRANTING PETITION
Filed: July 26, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 602936.1019	:

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper and timely reply within two months of mailing of the September 4, 2001 Notice to File Missing Parts of Nonprovisional Application (Notice), which required the submission of the basic filing fee, an executed oath or declaration in compliance with 37 CFR 1.63, a $130 surcharge fee, and substitute drawings in compliance with 37 CFR 1.84. On February 28, 2002, the Office received the $355 small entity filing fee, the $65 small entity surcharge fee, an executed declaration in compliance with 37 CFR 1.63, and a four month extension of time fee of $720. However, the reply did not include the substitute drawings required by the Notice. On March 25, 2002, the Office mailed a Notice of Incomplete Reply (Nonprovisional), again requiring the submission of substitute drawings in compliance with 37 CFR 1.84, and indicating that the time for reply remains as set forth in the Notice of September 4, 2001. No reply thereto was received. Accordingly, the above-identified application became abandoned on March 5, 2002.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (filing fee, surcharge fee, executed oath/declaration, and substitute drawings); (2) the petition fee ($665); and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the September 4, 2001 Notice is accepted as having been unintentionally delayed.

There is no indication that petitioner herein, Mr. J. David Dainow, was ever given a power of attorney or authorization of agent in this application. Therefore, it is not apparent whether Mr. Dainow was in a position to have firsthand or direct knowledge of the facts and circumstances of

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

Further, if Mr. Dainow desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent documentation must be submitted. While a courtesy copy of this decision is being mailed to Mr. Dainow at the address noted on the latest communication; i.e., the Status Inquiry received February 3, 2005, all future correspondence will be directed to the above-noted address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Cynthia Kratz at (571) 272-3286, or, in her absence, the undersigned at (571) 272-3217.

This matter is being referred to the Office of Initial Patent Examination for continued processing.

Frances Hicks for
Brian Hearn
Senior Petitions Examiner
Office of Petitions

cc:

J. David Dainow
150 East 42nd Street
New York, NY 10017-5612

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OFFICE OF PETITIONS

In re Application	:
Brian Wells	:
Application No. 09/916,212	: DECISION ON APPLICATION
Filed: July 25, 2001	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 130109.429	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)...," filed August 24, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred eighty-five (285) days to three hundred twenty (320) 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 three hundred twenty (320) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 3, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred eighty-five days. On August 24, 2004, 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 three hundred twenty (320) days. Applicants dispute the reduction of thirty-five (35) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed September 4, 2001.

The Office initially determined a patent term adjustment of two hundred eighty-five (285) days based on an adjustment for PTO delay of three hundred seventy-seven (377) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) reduced

[1] PALM records indicate that the Issue Fee was received in the Office on August 24, 2004

by applicants' delays of fifty-seven (57)days and thirty-five (35) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 377 days and the reduction of 57 days have been reviewed and found to be correct. The reduction of thirty-five (35) days of applicant delay is at issue.

The reduction of 35 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the Notice to File Missing Parts of Application mailed September 4, 2001, is of record in the application with a date of receipt by the Office of November 2, 2001. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have entered the date that the instant application was complete as January 8, 2002 or assessed applicants a delay of thirty-five (35) days. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicant's delay should have been assessed as zero (0) days. Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred twenty (320) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will refer the matter to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.

Karen A. Fuller
for

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

Enclosure: Copy of Revised PAIR Screen

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OFFICE OF PETITIONS

In re	: DECISION ON APPLICATION
Wells, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 09/916,213	: AND NOTICE OF INTENT TO
Filed: July 25, 2001	: ISSUE CERTIFICATE OF
Patent No. 6,861,167	: CORRECTION
Issued: March 1, 2005	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed August 10, 2004, and the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed March 30, 2005. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred ninety-three (193) days to four hundred ten (410) days.

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

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **four hundred ten (410) days**.

On May 10, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date was two hundred thirty-two (232) days. On August 10, 2004, Applicants timely[1] submitted an 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 was three hundred twenty-nine (329) days.

No decision on the application for patent term adjustment was rendered. On March 1, 2005, the above-identified application matured into U.S. Patent No. 6,861,167. The patent issued with a Patent Term Adjustment of one hundred ninety-three (193) days.

The Office determined a patent term adjustment of one hundred ninety-three (193) days based on an adjustment for PTO delay of three hundred twenty-nine (329) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and eighty-one (81) days pursuant to 35 U.S.C. 154(b)(1)(B)(iii) and 37 C.F.R. § 1.703(a)(6), reduced by applicants' delays of ninety-seven (97) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and one hundred twenty (120) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(c)(10). The PTO delays of 329 and 81 days have been reviewed and found to be correct. The adjustments of 97 and 120 days are at issue.

Patentees state that the patent is not subject to a terminal disclaimer.

The adjustment of ninety-seven (97) days has been found to be incorrect. A review of the application file reveals that a Notice to File Missing Parts of Nonprovisional Application was mailed on September 4, 2001. Applicants filed a complete response to this notice on November 2, 2001. As this was timely pursuant to 37 C.F.R. § 1.704(b), no applicant delay should have been assessed.

The adjustment of one hundred twenty (120) days has also been found to be incorrect. Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application.

---

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

In view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. § 254 and 37 C.F.R. § 1.322 is appropriate. The determination of patent term adjustment is four hundred ten (410) days (410 (329 + 89) days of PTO delay, reduced by 0 days of applicant delay).

Receipt is acknowledged of the $200 fee set forth in 37 C.F.R. § 1.18(e) for the application for patent term adjustment filed August 10, 2004. No fee was required for the application for patent term adjustment filed March 30, 2005, and none has been charged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **four hundred ten (410) days,** subject to any disclaimers.

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

Enclosure: draft certificate of correction

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Paper No. 8

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Fish & Richardson, P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

In re Application of:	:	
Shapiro *et al.*	:	
Application No. 09/916,219	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: July 27, 2001	:	
Attorney Docket No. 07066-065001	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 12, 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 the others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by David J. Goren, an attorney of record, behalf of all attorneys of record except William J. Egan, III. Further, there is no outstanding Office action requiring a response by the applicant.

Accordingly, the request is **approved**. William J. Egan, III, remains as attorney of record at this time.

As indicated in the request, all future communications from the Office will be directed to the below-listed address until otherwise notified by the applicant or assignee.

Inquiries related to this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

William
Egan
510
843
6200 X 206

cc: Beyer, Weaver & Thomas, LLP
P.O. Box 778
Berkeley, CA 94704-0778

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

Perkins Coie LLP
P.O. Box 2168
Menlo Park, CA 94026

Paper No. 9

In re Application of Theodore C. Johnson et al Serial No. : 09/916,235 Filed : July 25, 2001 For : Method for Detecting and Treating Tumors Using Localized Impedance	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request filed June 12, 2003, to review the holding of abandonment mailed April 18, 2003, for failure to respond to the Office action mailed September 11, 2002. The basis for the request is that applicant did not receive the Office action mailed September 11, 2002. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53. The request filed June 12, 2003 includes all the above elements. The request is therefore GRANTED.

A review of the file also shows, as correctly pointed out by petitioner, that the Office action of September 11, 2002 and the Notice of Abandonment mailed April 18, 2003, were mailed to an incorrect address as the Office had not processed a change in power of attorney that was filed January 24, 2002. Any inconvenience is respectfully regretted.

In view of the above facts, the abandonment of the application was in error and is hereby withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the processing of the change in power of attorney filed January 24, 2002 and the remailing of the Office action originally mailed September 11, 2002.

Summary: Holding of Abandonment Withdrawn.

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

ak/7/1/03

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OFFICE OF PETITIONS

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

In re Patent No. 6,962,587	:	
Issued: November 8, 2005	:	
Application No. 09/916,235	:	NOTICE
Filed: July 25, 2001	:	
Attorney Docket No. 13724-850 (37167)	:	

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 6,887,606 De Vaal et al. Issue Date: May 3, 2005 Application No. 09/916,240 Filed: July 25,2001 Attorney Docket No. 130109.409	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed July 1, 2005. Patentees request that the patent term adjustment indicated on the patent be corrected from one hundred thirteen (113) to two hundred thirty-three (233) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred thirty-three **(233)** days.

On May 3, 2005, the above-identified application matured into U.S. Patent No. 6,887,606. The instant request for reconsideration filed July 1, 2005 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 113 days. Patentees dispute the reduction of 120 days associated with the filing of a "Remarks After Allowance," filed September 22, 2004. Patentees state that this paper did not amend the application, and thus, no reduction under 1.704(c)(10) was warranted.

By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10). 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, 1247 OG 111 (June 26, 2001); See also MPEP 2731. A review of the application record reveals that the reduction of 120 days was based on the filing after allowance of a "Remarks After Allowance" filed September 22, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 120 days.

In view thereof, the patent term adjustment indicated on the patent should have been two hundred thirty-three **(233)** days.

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 Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by two hundred thirty-three (233) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PATTERSON, THUENTE, SKAAR &
CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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OFFICE OF PETITIONS

In re Patent of :
Gao et al. :
Patent No. 6,912,715 :
Issued: June 28, 2005 : ON PETITION
For: SYSTEM AND METHOD FOR WEB- :
BASED REMOTE PROCEDURE CALL (RPC) :

This is a decision on the Petition Under 37 CFR § 1.183 for Correction of Assignee's Name, filed July 15, 2005, to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **dismissed**.

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition", and should only address the deficiencies noted below. Any extensions of time will be governed by 37 CFR 1.136(a).

Applicant requests waiver of 37 CFR 3.81(a) to allow the addition of an assignee; however, Applicant has failed to state that the assignment was submitted for recordation before issuance of the patent. Also, Applicant putatively provides a copy of the Notice of Recordation of Assignment Document; however, no such document has been located among the papers filed with the instant petition.

Applicable Law, Rules and MPEP

37 CFR 3.81 was revised to read that

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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

Here, Petitioner has failed to state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent.

In accordance with 37 CFR 3.81(b), Petitioner must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for certificate of correction under § 1.323 of this chapter.

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

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

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Patent No. 7,054,508	: DECISION REGARDING PTA
Issued: May 30, 2006	: and NOTICE OF INTENT TO ISSUE
Application No. 09/916,265	: CERTIFICATE OF CORRECTION
Filed: July 30, 2001	:
Atty. Dkt. No.: 862.C2318	:

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER," filed August 4, 2006.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is hereby **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,054,508 on May 30, 2006. The patent issued with a PTA of 550 days. The instant application for PTA was timely filed August 4, 2006 (certificate of mailing date of July 31, 2006). Patentees argue that the adjustment of 550 days is incorrect and further argue that the patent is entitled to an adjustment of 580 days. Specifically, patentees dispute the reduction of 80 days in connection with the Rule 312 amendment submitted January 23, 2006. Instead, patentee argues that the adjustment is properly reduced 50 days.

A review of the application history reveals that at the time of issuance, the patent was entitled to an adjustment of 580 days. The adjustment of 708 days attributed to the Office in accordance with 37 CR 1.702 is properly reduced 128 days.

The period of reduction in connection with the Rule 312 amendment was improperly calculated. The proper calculation is as argued by patentees. The reduction began January 23, 2006, the date the Rule 312 amendment was filed, and ended March 13, 2006, the date the examiner's amendment in response thereto was mailed.

Thus, at the time of issuance, the patent was entitled to an adjustment of 580 days, as argued by patentee.

Receipt is hereby acknowledged of the required application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 580 days.

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

Kery A Fries

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

Enclosure: Draft Certificate of Correction

C.C.: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,054,508 B2
DATED	:	May 30, 2006
INVENTOR(S)	:	Hanamoto

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 550 days

Delete the phrase "by 550 days" and insert – by 580 days--

DRAFT

PALM INTRANET

Day : Thursday
Date: 9/28/2006

Time: 15:15:55

PTA Calculations for Application: 09/916265			
Application Filing Date:	07/30/2001	PTO Delay (PTO):	708
Issue Date of Patent:	05/30/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	158
Post-Issue Petitions:	0	Total PTA (days):	580
PTO Delay Adjustment:	30		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48	09/28/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	30		
44.5	05/10/2006	PTA 36 MONTHS			
44	05/30/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	7		30
43	04/12/2006	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
42	04/12/2006	MAIL EXAMINER'S AMENDMENT			
41	04/10/2006	EXAMINER'S AMENDMENT COMMUNICATION			
40	03/23/2006	EXPORT TO FINAL DATA CAPTURE			
39	03/22/2006	DISPATCH TO FDC			
38	03/22/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
37	03/22/2006	RESPONSE TO AMENDMENT UNDER RULE 312			
36	03/22/2006	TC RETURN TO PUBS			
35	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
34	01/23/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		0	43
33	03/13/2006	MAIL EXAMINER'S AMENDMENT			
32	03/06/2006	EXAMINER'S AMENDMENT COMMUNICATION			
31	01/23/2006	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		80	43
30	01/23/2006	ISSUE FEE PAYMENT VERIFIED		5	26
29	01/23/2006	FINISHED INITIAL DATA CAPTURE			
28	01/23/2006	ISSUE FEE PAYMENT RECEIVED			
27	10/24/2005	EXPORT TO INITIAL DATA CAPTURE			
26	10/18/2005	MAIL NOTICE OF ALLOWANCE			
25	10/15/2005	ISSUE REVISION COMPLETED			

24	10/15/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	10/15/2005	NOTICE OF ALLOWABILITY			
22	10/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	09/30/2005	DATE FORWARDED TO EXAMINER			
20	09/12/2005	AMENDMENT AFTER FINAL REJECTION		34	17
19	09/12/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	06/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	05/09/2005	MAIL FINAL REJECTION (PTOL - 326)	6		13
16	05/04/2005	FINAL REJECTION			
15	04/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	04/01/2005	DATE FORWARDED TO EXAMINER			
13	01/03/2005	RESPONSE AFTER NON-FINAL ACTION		39	9
12	01/03/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
10	01/03/2005	WORKFLOW INCOMING AMENDMENT IFW			
9	08/25/2004	MAIL NON-FINAL REJECTION	695		-1
8	08/23/2004	NON-FINAL REJECTION			
7	03/20/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6	01/31/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	10/18/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	09/11/2001	APPLICATION DISPATCHED FROM OIPE			
3	09/10/2001	CORRESPONDENCE ADDRESS CHANGE			
2	08/07/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/30/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Back to PALM | ASSIGNMENT | OASIS | Home page

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NAVAL RESEARCH LABORATORY, CODE 1008.2
4555 OVERLOOK AVE., S.W.
CODE 1008.2
WASHINGTON, DC 20375-5320

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,803,208 :
Issue Date: October 12, 2004 :
Application No. 09/916,272 :
Filed: July 30, 2001 :
Attorney Docket No. N.C. 80,218 :

This is a decision on the petition under 37 CFR 1.183, filed October 29, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1], to accept the addition of the second assignee on the front page of the above-identified patent.

The petition is **dismissed**.

Petitioner requests issuance of a certificate of correction to add the second assignee's name of "The American National Red Cross, Rockville, MD (US)." 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. U.S. Patent and Trademark Office assignment records disclose that an assignment from inventor Stephen J. Wagner to The American National Red Cross, Rockville, MD was recorded on October 25, 2004, after the date of issuance of this patent. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. Note also MPEP Section 307.

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

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

By hand: Customer Service Window
Mail Stop Petitions

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

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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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Paper No. 9

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

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OFFICE OF PETITIONS

In re Application of
Gehrke, Gary Curtis
Application No. 09/916,364
Filed: July 27, 2001
Attorney Docket No. 403

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 10, 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 November 20, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on February 21, 2003. A Notice of Abandonment was mailed on October 22, 2003.

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

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 $950.00 extension of time fee submitted with the petition on February 10, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The change of correspondence address file February 10, 2004, cannot be accepted because it was not signed by an attorney of record. See MPEP §§ 601.03 and 405. 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.

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

cc: Michael R. Cammarata
BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. Box 747
Falls Church, VA 22040-0747

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Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

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In re Application of
Dellinger et al.
Application No.09/916,369
Filed: July 27, 2001
Attorney Docket Number: 10003869-1
Title of Invention: Synthesis of Polynucleotides Using Combined Oxidation/Deprotection Chemistry

ON PETITION

This is a decision on the petition filed July 10, 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 April 6, 2006. 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 July 7, 2006. A Notice of Abandonment was mailed on July 28, 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 50-1078 will be charged the $1500.00 petition fee.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/916,443	07/30/2001	Bruce Eaton	2636-108-C

CONFIRMATION NO. 1798

FORMALITIES LETTER

OC000000007914642

6449
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

OIPE JC79
OCT 21 2002
PATENT & TRADEMARK OFFICE

Date Mailed: 04/19/2002

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

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

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

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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

Box Sequence

1655

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

	Complete if Known	
	Application Number	**09/916,443**
	Filing Date	**July 30, 2001**
	First Named Inventor	**Bruce EATON**
	Group Art Unit	**1655**
	Examiner Name	
Total Number of Pages in This Submission ____	Attorney Docket Number	**2636-108-CII**

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)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers
- [ ] 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)*:
  1. **Statement Pursuant to 37 CFR §1.821(f) and §1.821(g)**
  2. **PTO Notice (copy)**
  3. **Sequence Listing**
  4. **Disk w/computer readable copy of Sequence Listing**

REMARKS:

SUBMITTED BY				Complete (if applicable)	
NAME AND REG. NUMBER	Glenn E. Karta, Registration No. 30,649				
SIGNATURE		DATE	October 21, 2002	DEPOSIT ACCT USER ID	02-2135

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OCT 2 4 2002
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OCT 2 1 2002
PATENT & TRADEMARK OFFICE

FEE TRANSMITTAL for FY 2001 (Small Entity)

		Complete if Known	
		Application Number	09/916,443
		Filing Date	July 30, 2001
		First Named Inventor	Bruce EATON
		Group Art Unit	1655
		Examiner Name	
Total Amount of Payment	($) 720.00	Attorney Docket Number	2636-108-CII

RECEIVED
OCT 2 4 2002
TECH CENTER 1600/2900

METHOD OF PAYMENT (check one)

1. [X] The Commissioner is hereby authorized to charge additional fees and credit any overpayment to Deposit Account Number 02-2135 in the name of Rothwell, Figg, Ernst & Manbeck

   [X] Charge any Additional Fee Required Under 37 CFR 1.16 and 1.17

   [X] Applicant claims small entity status.

2. [x] Payment Enclosed:
   - [x] Check
   - [ ] Credit Card

FEE CALCULATION

1. FILING FEE

Fee Code	Fee $	Fee Description	Fee Paid
201	370	Utility filing fee	[ ]
206	165	Design Filing Fee	[ ]
207	255	Plant Filing Fee	[ ]
208	370	Reissue Filing Fee	[ ]
214	80	Provisional Filing Fee	[ ]

SUBTOTAL $

2. CLAIMS

			Extra Claims		Fee	Fee Paid
Total Claims	[ ]	- 20** =	[ ]	x	$ 9 =	[ ]
Independent Claims	[ ]	- 3** =	[ ]	x	42 =	[ ]
Multiple Dependent Claims				+	140 =	[ ]

***or number previously paid, if greater;*

SUBTOTAL $

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Fee Code	Fee Paid	Fee Description	Fee Paid
205	65	Surcharge - late filing fee or oath	[ ]
227	25	Surcharge - late provisional filing fee or cover sheet	[ ]
139	130	Non-English specification	[ ]
147	2,520	For filing a request for reexamination	[ ]
112	920	Requesting publication of SIR prior to Examiner action	[ ]
113	1,840*	Requesting publication of SIR after Examiner action	[ ]
215	55	Extension for reply within first month	[ ]
216	200	Extension for reply within second month	[ ]
217	460	Extension for reply within third month	[ ]
218	720	Extension for reply within fourth month	[720.00]
228	980	Extension for reply within fifth month	[ ]
219	160	Notice of Appeal	[ ]
220	160	Filing a brief in support of an appeal	[ ]
221	150	Request for Oral Hearing	[ ]
138	1,510	Petition to institute a public use proceeding	[ ]
240	55	Petition to revive -unavoidable	[ ]
241	640	Petition to revive - unintentional	[ ]
242	640	Utility issue fee (or reissue)	[ ]
243	230	Design issue fee	[ ]
244	310	Plant issue fee	[ ]
122	130	Petitions to the Commissioner	[ ]
123	50	Processing fee under 37 CFR 1.17(q)	[ ]
126	180	Submission of Information Disclosure Statement	[ ]
581	40	Recording each patent assignment per property (times number of properties)	[ ]
246	370	Filing a submission after final rejection (37 CFR .129(a))	[ ]
249	370	For each additional invention to be examined (37 CFR 1.129(b))	[ ]
279	370	Request for Continued Examination (RCE)	[ ]
169	900	Request for expedited examination of a design application	[ ]
195	300	Publication fee for early, voluntary, or normal publication	[ ]
196	300	Publication fee for republication	[ ]
089	200	Filing an application for patent term adjustment	[ ]
090	400	Request for reinstatement of term reduced	[ ]
Other fee (specify)			[ ]

* Reduced by Basic Filing Fee Paid **SUBTOTAL** $720.00

SUBMITTED BY				Complete (if applicable)	
NAME AND REG. NUMBER	Glenn E. Karta, Registration No. 30,649				
SIGNATURE		DATE	October 21, 2002	DEPOSIT ACCT USER ID	02-2135

I:\DATA\Clients\2636\2636-108-CII.fee

OIPE JC186
FEB 19 2002
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/916,443	07/30/2001	Bruce Eaton	2636-108-C

CONFIRMATION NO. 1798

FORMALITIES LETTER

OC000000006444432

6449
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
555 13TH STREET, N.W.
SUITE 701, EAST TOWER
WASHINGTON, DC 20004

Date Mailed: 08/20/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

02/22/2002 BSAYASI1 00000029 09916443

01 FC:201 370.00 OP
02 FC:203 63.00 OP
03 FC:205 65.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **710** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $126.
  - $**126** for **7** total claims over 20.
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 966.**

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

2636-108-CII
GEK:krb

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FEB 19 2002
PATENT & TRADEMARK OFFICE

SECTOR B
Box Fee

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)
	) Box Missing Parts
Bruce EATON *et al.*	)
	)
Serial No. **09/916,443**	) Attention:
	) Applications Branch
Filed: **July 30, 2001**	)
	)
For: **PARALLEL SELEX**	)

RESPONSE TO NOTICE TO FILE MISSING PARTS

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

Dear Sir:

In response to a Notice to File Missing Parts of Application under 37 CFR 1.53(b) dated August 20, 2001, response copy attached and pursuant to 37 C.F.R. 1.63(d), enclosed is a copy of a Declaration and Power of Attorney submitted in connection with parent application 09/546,637. Also attached is a check in payment of the following fees:

$ 65.00 (surcharge under 37 C.F.R. 1.16(e))
370.00 (basic filing fee)
63.00 (additional claims fee)
$ 498.00 TOTAL

Please charge any additional fees or credit any overpayment for the payment of the filing fee, any extra claims fees or the surcharge to deposit account number 02-2135. An additional copy of this letter is enclosed for that purpose.

The following document is being submitted concurrently under separate cover:

- Sequence Listing and labeled computer disk; and
- Request for Extension of Time.

Respectfully submitted,

By _____

Glenn E. Karta
Attorney for Applicants
Registration No. 30,649
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 701-E, 555 13th Street, N.W.
Washington, D.C. 20004
Telephone: (202)783-6040

2636-108.nmp

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Shunpei Yamazaki et al	:
Application No. 09/916,484	:
Filed: July 30, 2001	:
Attorney Docket No. 740756-2344	:

This is a decision on the petition, filed March 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 March 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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).

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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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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:
Antonius H.J. Gerrits et al	:
Application No. 09/916,491	: DECISION ON PETITION
Filed: July 27, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. FCI-2699/4450G	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application (Application No. 09/748,503) set forth in the amendment filed November 25, 2002, and resubmitted with the instant petition.[1]

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. In this regard, the amendment, as currently worded, cannot be entered as filed since provisional Application No. 60/047,398 was filed more than one year from the instant prior-filed application, to priority is being claimed . It is

[1] The instant application was published on May 9, 2002 and contained a reference to nonprovisional Application No. 09/297,776 and provisional Application No. 60/047,398.

noted that intermediate Application No. 09/297,776 is a 371 of PCT/US97/14369, filed August 13, 1997, which claims benefit to the above-noted provisional application. Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). *See also* MPEP § 201.11. Every intermediate application must make a reference to the first (earliest) application and every application after the first application and before such intermediate application. Therefore, if appropriate, a reference to the PCT application in the amendment should be made in order to claim benefit of the above-noted provisional application.

If reconsideration of this decision is desired, a renewed petition under 37 CFR 1.78(a)(3), along with a substitute amendment correcting the above-noted deficiency, must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

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

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

By hand: Customer Window located at:

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

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

Telephone inquiries concerning this decision should 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

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PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of
Gerritts
Application No. 09/916491
Filed: July 27, 2001
Attorney Docket No. EL-4450-G

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 25, 2004, 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 applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. 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 instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a

reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(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 with the renewed petition fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable. Specifically in line 8, the phrase. "This application" is unclear as to whether the instant application is meant, or 09/297,776.

The amendment filed with the renewed petition is additionally not acceptable as drafted since it improperly incorporates by reference prior-filed application Nos: PCT/US97/14369; provisional 06/047,398; and non provisional 08/748,503. 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). The only prior application herein incorporated by reference on the date the instant application was filed was 09/297,776 (in the transmittal letter).

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and a substitute amendment to correct the above matters is required.

Insofar as can be determined from the current content of the benefit claim, an acceptable claim might be drafted as follows:

--This application is a continuation of application no. 09/297,776 filed July 28, 1999, now U.S. Pat. No. 6,533,177, expressly incorporated herein by reference, which is the national stage entry under 35 USC 371 of PCT/US97/14369, international filing date August 13, 1997, which claims benefit of U.S. provisional application No. 60/047,398 filed May 22, 1997, and said 09/297,776 is also a continuation of application No. 08/748,503 filed November 8, 1996, now U.S. Pat. No. 6,058,018. --

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:

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

By Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-1820..

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

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OFFICE OF PETITIONS

In re Application of	:
Gerritts	: DECISION ON PETITIONS
Application No. 09/916491	: UNDER 37 CFR 1.78(a)(3) AND
Filed: July 27, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. EL-4450-G	:

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 12, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on July 27, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, the parent of the instant pending nonprovisional application was filed within twelve months of provisional Application No. 60/047,398, whose U.S. filing date is May 22, 1997, which parent case filing date is the international filing date of PCT/US97/14369 filed August 13, 1997. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center Art Unit 2876 for appropriate action on the amendment submitted August 112, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Any questions concerning this matter may be directed to the undersigned at (571)272-3217..

Brian Hearn

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

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 24, 2006

TO SPE OF : ART UNIT 2112 Km Huynh

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/916513 Patent No.: 7032048

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

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

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

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 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: Formal drawings should have been printed.

SPE

2112
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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Office of the Director
Group 3600

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

In re application of
Pito Salas et al.
Application No. 09/916,528
Filed: July 27, 2001
For: METHOD AND APPARATUS FOR CONTROLLING ACCESS TO A PRODUCT

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the renewed request filed on February 27, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

A request filed May 13, 2003 to withdraw as attorney in the above-identified application is not approved because the request does not comply with condition A).

As to condition A), the attorney who signed the request is not of record. Therefore he cannot withdraw on behalf of all attorneys of record. Furthermore, the attorneys listed on the original Power of Attorney do not correspond with those listed on the request.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3866

KJD/dxn: 7/8/03

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Paper No. 5

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TYSONS CORNER
1750 TYSONS BOULEVARD
SUITE 1800
MCLEAN VA 22102-4215

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OFFICE OF PETITIONS

In re Application of
Hayashi, et al.
Application No. 09/916,529
Filed: July 30, 2001
Docket No. 01FN046US

: DECISION ON PETITION

This is a decision on the petition filed September 24, 2001, to accord the above-identified application a filing date of July 30, 2001, with Figures 35 and 36 of the drawings as a part of the original disclosure.

Application papers in the above-identified application were filed on July 30, 2001. However, on September 13, 2001, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Items in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, Figures 35 and 36 of the drawings appeared to have been omitted.

In response, applicant filed the present petition to accord a filing date of July 30, 2001, with Figures 35 and 36 as part of the original disclosure. Applicant asserted that Figures 35 and 36 were with the application as originally filed on July 30, 2001.

A review of the record reveals that the drawing sheet containing Figures 35 and 36 was not submitted on July 30, 2001. Moreover, a review reveals that two drawings sheets were submitted in duplicate; the drawing sheet containing Figures 32 - 34, and the drawing sheet containing Figures 68 - 69. The evidence submitted on petition, including a "postcard receipt" and the declarations of attorney Reif and assistant Sosa, is not more persuasive than the actual papers shown to have been received by the official file. Because Figures 35 and 36 were not present on July 30, 2001, the date the application was filed, Figures 35 and 36 cannot be considered a part of the original disclosure of the application. Accordingly, the application cannot be accorded the filing date of July 30, 2001, with the drawings of Figures 35 and 36 as a part of the original disclosure.

Accordingly, the petition is **DISMISSED**.

Figures 35 and 36, submitted with the instant petition on September 24, 2001, will not presently be entered or used during the prosecution of this application. However, applicant may resubmit the matter included in Figures 35 and 36 as an amendment for consideration by the examiner under Sections 608.02(h) of the Manual of Patent Examining Procedure.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of July 30, 2001, using the drawings submitted on that date.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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06212004

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

JUL 6 2004

In re Application of
Katsura Miyashita et al.
Application No.: 09/916,530
Filed: July 30, 2001
For: **SEMICONDUCTOR DEVICE COMPRISING METAL SILICIDE FILMS FORMED TO COVER GATE ELECTRODE AND SOURCE-DRAIN DIFFUSION LAYERS AND METHOD OF MANUFACTURING THE SAME**

WITHDRAWAL FROM ISSUE
37 C.F.R. § 1.313

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. § 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon 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 Fee(s) 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 and Fee(s) Due in order to prevent abandonment of the application.

Telephone inquiries should be directed John Niebling, Supervisory Patent Examiner, at (571) 272-1679.

The examiner will notify applicant of the new status of this application in an Office action to be issued promptly.

Sharon Gibson, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

Mail Date: 06/18/2010

Applicant	: Chris A. Barton	: DECISION ON REQUEST FOR
Patent Number	: 7665137	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/916,600	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2132** 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

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AUG 23 2005

OFFICE OF PETITIONS

MORRIS E. COHEN
SUITE 217
1122 CONEY ISLAND AVENUE
BROOKLYN, NY 11230-2345

In re Application of	:
David Zahner	: DECISION ON PETITIONS
Application No. 09/916,603	: UNDER 37 CFR 1.78(a)(3) AND
Filed: July 27, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 4042.026.200	:

This is a decision on the petition filed November 24, 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 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. 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.

The amendment filed November 24, 2004, states that Application No. 09/738,545, filed December 15, 2000, claims benefit to Provisional Application Nos. 60/143,853 filed July 15, 1999 and Provisional Application No. 60/150,876, filed August 26, 1999. However, Application No. 09/738,545 was filed more than twelve months of the filing dates of the provisional applications.

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 Certificate of Correction (with fee of $100) should be submitted.

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

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

By hand: Customer Window located at:

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
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. 9

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

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JUN 1 3 2003

OFFICE OF PETITIONS

In re Application of Sunit Lohtia Application No. 09/916,608 Filed: July 26, 2001 Attorney Docket No. 3399P060	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(f), filed May 15, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on July 26, 2001 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On July 2, 2002, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on July 17, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

The petition fee of $1,300 has been refunded to Deposit Account No. 02-2666.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

The application file is being forwarded to Technology Center 2100 for processing in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GRAY CARY WARE & FREIDENRICH LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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OCT 2 8 2003

OFFICE OF PETITIONS

In re Application of	:
Geeng-Chuan Chern	:
Application No. 09/916,618	: DECISION GRANTING PETITION
Filed: July 26, 2001	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 2102397-911600	:

This is a decision on the petition, filed October 23, 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 August 8, 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 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 7

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

MAIL

OCT 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Steve C. JOHNSON, et al.
Application No. 09/916,630
Filed: July 27, 2001
For: VARIABLE EGPWS LOOK-AHEAD OFFSET AND SUB-OFFSET

DECISION ON PETITION

This is a response to the petition to revive patent application under 37 CFR 1.137(a) filed August 30, 2004. The petition is being treated as a petition under 37 CFR 1.8(b) to withdraw the holding of abandonment.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the August 27, 2003 Office action, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on April 20, 2004.

Petitioner alleges to have timely filed a response to the Office action on December 11, 2003. To support this position, Petitioner has included with the transmission, a statement from Michael S. Smith (Attorney/Agent of record), a post card which itemizes the response including a one month extension, a copy of an amendment, a statement of common ownership and a check for $110 for one month extension. The post card is not date stamped as having been received by the USPTO and therefore does not serve as prima facie evidence of receipt of the items listed.

However, 37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

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

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn. Furthermore, the $110 fee sent with the original response for extension of time has been credited to the application.

The application will be forwarded to the Technology Center's technical support staff for entry of the response. From there, the file will be forwarded to the examiner for consideration in due course. Since no fee is due for these types of petitions. The $110 fee accompanying the petition has been credited to Deposit Account No. 501050.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 15

BRENDA POMERANCE
LAW OFFICE OF BRENDA POMERANCE
260 WEST 52 STREET SUITE 27B
NEW YORK, NY 10019

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DEC 29 2003
OFFICE OF PETITIONS

In re Application of
Hosogai, Toshio
Application No. 09/916,631
Filed: July 27, 2001
Attorney Docket No. 0815-4001

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 3, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed September 6, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 7, 2002. A Notice of Abandonment was mailed on April 21, 2003.

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

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

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

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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BRIGGS AND MORGAN P.A.
2200 IDS CENTER 80 SOUTH 8TH ST
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Eckert et al.	:	
Application No. 09/916,636	:	DECISION ON PETITION
Filed: 07-26-2001	:	
Attorney Docket No. 9365.17031	:	

This is a decision on the petition under 37 CFR 1.181, filed on January 31, 2007, to withdraw the holding of abandonment.

On June 7, 2006, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely response, the Office mailed a Notice of Abandonment on January 19, 2007.

Petitioner asserts that a proper reply was filed timely. In support of the assertion, petitioner submits a copy of a return date-stamped postcard, acknowledging receipt of "Amendment and Response to Office Action of June 7, 2006," in the USPTO on August 25, 2006. A copy of the previously submitted reply accompanies the petition.

The Office has not located the original reply. Nevertheless, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." MPEP 503. Accordingly, it is concluded that the reply was filed timely in the USPTO on August 25, 2006, but was not matched with the application.

For the reasons stated above, the petition is **granted.** The holding of abandonment is hereby withdrawn and the application restored to pending status. The Office will accept the copy of the reply submitted with the petition on January 31, 2007, in place of the reply submitted on August 25, 2006.

This matter is being referred to Technology Center Art Unit 3711 for appropriate action on the reply received with petition.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of	:
Tim Corvi et al	:
Application No. 09/916,642	: DECISION GRANTING PETITION
Filed: July 27, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 018489001610	:

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 3736.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Liniak, Berenato, Longacre & White
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

Paper No. 7

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AUG 0 2 2002

OFFICE OF PETITIONS

In re Application of
Bruno Grendene
Application No. 09/916,650
Filed: July 30, 2001
Attorney Docket No. 1200.513
Title: METHOD AND DEVICE FOR DETECTING THE BLOCKING OF A STEPPER MOTOR

DECISION ON PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b) [1], filed April 5, 2002.

The petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 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).

---

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a complete copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign, or cannot be reached after diligent efforts;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The above-identified application was filed on July 30, 2001, without an executed oath or declaration and identifying Bruno Grendene as the sole inventor. On September 7, 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 37 CFR §1.63, a surcharge for the late filing of the oath or declaration, and the filing fee. This Notice set a two-month period for reply.

In reply, applicant filed the original petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, the filing fee, and a five-month extension of time to make timely this reply.

With the petition, the petitioner has provided the last known address of the inventor, a statement by Michel Gerrard (counsel for an entitiy called Valeo Climatisation, the purported assignee), a declaration executed by Mr. Gerrard, and the filing fee[2].

The petitioner asserts that the non-signing inventor worked for the purported assignee during the relevant period of invention, that the present application is directly related to the business of the purported assignee, and that the purported assignee has a property interest in the present application.

Rule 47 applicant has met requirements (1) – (3) above.

Regarding the fourth requirement above, nowhere is it set forth that a complete copy of the application papers was sent to the non-signing inventor for him to review. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] On renewed petition, it should be established that a complete copy of the application was sent to the non-signing inventor.

Regarding the fifth requirement above, it follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[4].

---

2 Petitioner has also submitted a copy of the non-signing inventor's employment agreement, as well as several e-mails. Unfortunately, as these documents are in French and the petitioner has failed to provide a translation, their contents cannot be discerned.

3 See MPEP 409.03(d).

4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Regarding the sixth requirement above, Rule 47 applicant has not established sufficient proprietary interest in the subject matter to justify the filing of the application. It is noted that no assignment has been filed in conjunction with this application. Furthermore, as stated above, the submitted employment agreement cannot be understood. On renewed petition, petitioner should submit a translation of this document.

Regarding the seventh requirement above, no proof of irreparable damage has been submitted.

Regarding the eighth requirement above, the submitted declaration is not in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63. It is noted that Mr. Gerrard has executed the declaration on behalf of the non-signing inventor. First, both his residence and his post office address are listed as "Valeo Climatisation". It is certainly understandable that he has listed his work address as his mailing address. However, it is less clear why the declarant has seemingly asserted that he lives in his office. Secondly, the declaration fails to list the relationship of the declarant to the non-signing inventor.[5] Thirdly, it is noted that the citizenship of both the non-signing inventor and Mr. Gerrard is listed as "French". This should read "France". On renewed petition, the petitioner should either provide an executed oath or declaration, or one that corrects the deficiencies set forth above.

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

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

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

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

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

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

5 See MPEP §§ 409.03(b), 409.03 (f), and 605.04(a).

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

Liniak, Berenato, Longacre & White
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

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OFFICE OF PETITIONS

In re Application of	:
Bruno Grendene	:
Application No. 09/916,650	:
Filed: July 30, 2001	: DECISION NOTING JOINDER OF
Attorney Docket No. 1200.513	: INVENTOR AND PETITION
Title: METHOD AND DEVICE FOR	: UNDER 37 CFR 1.47(b) MOOT
DETECTING THE BLOCKING OF A	:
STEPPER MOTOR	:

This is in response to the "Request for Reconsideration of Petition under 37 CFR §1.47(b)", filed on October 31, 2002, in response to a "Decision on Petition Under 37 CFR §1.47(b)" mailed August 2, 2002, which dismissed the original petition, filed on April 5, 2002.

With the Renewed petition, the petitioner has included a declaration which has been executed by the previously non-signing inventor.

Consequently, the renewed petition is dismissed as moot.

In view of the joinder of the inventor, further consideration under 37 CFR §1.47(b) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(b).

The application file is being forwarded to Technology Center 2800 to complete processing of the application.

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

Nancy Johnson for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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R. Michael Ananian
DORSEY & WHITNEY LLP
Intellectual Property Department
555 California Street, Suite 1000
San Francisco, CA 94104-1513

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OFFICE OF PETITIONS

In re Application of	:	
Horen et al.	:	DECISION
Application No. 09/916,655	:	ON PETITION
Filed : July 27, 2001	:	
Attorney Docket Number:	:	
A-69479/RMA	:	

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

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed July 19, 2005. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on November 23, 2005; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed December 28, 2005.

No complete and proper reply having been received, the application became abandoned October 20, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 2151 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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. 14

GRAY CARY WARE & FREIDENRICH LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

MAR 23 2004

In re Application of	)	
BOON-SIEW OOI et al	)	
Application No. 09/916,701	)	DECISION ON REQUEST TO
Filed: July 26, 2001	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 2103248-990140	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 14, 2003.

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

The request meets all the above listed requirements.

The request is APPROVED.

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

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

cc: Seng-Tiong Ho
120 Picardy Lane
Wheeling, IL 60090

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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LAW OFFICE OF CHARLES E. KRUEGER
P.O. BOX 5607
WALNUT CREEK, CA 94596-1607

Mail Date: 04/21/2010

Applicant	: Michael D. Doyle	: DECISION ON REQUEST FOR
Patent Number	: 7613571	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/916,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **433** 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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United States Patent and Trademark Office
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ZILKA-KOTAB, PC
PO BOX 721120
SAN JOSE, CA 95172-1120

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MAY 14 2010

OFFICE OF PETITIONS

In re Patent No. 6,980,922 :
Issue Date: December 27, 2005 :
Application No. 09/916,714 : ON PETITION
Filed: July 26, 2001 :
Attorney Docket No. NAI1P016/01.065.01 :

This is a decision on the petition under 37 CFR 1.378(c), filed February 26, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 27, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

/AMW/
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
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Charles N. J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

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MAY 2 2 2006
OFFICE OF PETITIONS

In re Application of:	:	
ROLL, Richard, J., et al.	:	DECISION ON PETITION FOR
Application No.: 09/916,781	:	REVIVAL OF ABANDONED
Filing Date: July 27, 2001	:	APPLICATION UNDER
Attorney's Docket No.: 2125.002USU	:	37 CFR 1.137(b)
For: METHOD AND SYSTEM OF	:	
PROVIDING COMPETITIVE	:	
COMPARATIVE TERMS TO THE	:	
USER	:	

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed February 02, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed December 01, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned at midnight on March 01, 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the reply in the form of a response to the Office action mailed December 01, 2004; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply to the Office action of December 01, 2004 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 3627.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3296.

Richard M. Ross
Attorney Advisor

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 07 2005

OFFICE OF PETITIONS

Joseph A. Nguyen
IPSG, P.C.
P.O. Box 700640
San Jose, CA 95170-0640

In re Application of
ANTOLIK
Application No.: 09/916,784
Filed: July 27, 2001
Attorney Docket No.: LMRX-P040/P815

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 7, 2004, which set a shortened statutory period for reply of three (3) months. While a timely reply was filed on March 14, 2005 (reply was accompanied by petition for a two-month extension of time with certificate of mailing of March 7, 2005), that reply did not prima facie place this application in condition for allowance as indicated by the Advisory Action of April 7, 2005. A Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on March 08, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of October 07, 2004 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 1763.

Telephone inquires concerning this decision should be directed to Derek A. Putonen at (571) 272-3294 or in his absence, the undersigned at (571) 272-3217

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Sean James Martin	: DECISION ON REQUEST FOR
Patent Number	: 7606899	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/916,792	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **906** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ronald Coslick
Foley & Lardner
Suite 3500
2029 Century Park East
Los Angeles CA 90067-3021

MAIL

AUG 1 2 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Victor Demjanenko
Application No.: 09/916,865
Filed: July 27, 2001
For: USE OF SOFT-DECISION OR SUM-PRODUCT INNER CODERS TO IMPROVE THE PERFORMANCE OF OUTER CODERS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 24, 2002.

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

The request meets all the above-listed requirements. 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 attorneys. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Dr. Victor Demjanenko
VoCal Technologies, Ltd.
200 John James Audubon Pkwy.
Buffalo, NY 14228

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ROBERT A. MCCANN, ESQ.
PANDUIT CORP.
LEGAL DEPARTMENT - TP12
17301 S. RIDGELAND AVENUE
TINLEY PARK IL 60477

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Jed M. Barker et al	:	
Application No. 09/916,923	:	
Filed: July 26, 2001	:	
Attorney Docket No. LCB 373	:	

This is a decision on the petition, filed October 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 September 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2833 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

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

#3

William J. Benman
Suite 2740
2049 Century Park East
Los Angeles, CA 90067

MAILED

MAY 27 2003

Office of the Director
Group 3600

In re application of
Ruben G. Duran
Application No. 09/916,927 :
Filed: July 27, 2001 :
For: ESCROW ACCOMMODATION SYSTEM :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 11, 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 as MOOT**.

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request does not now have, and apparently never has had, power of attorney in this application.

There is no record of power of attorney ever being given to the attorney making the request. The original declaration does not include a power of attorney and no separate paper conferring power of attorney to the attorney making the request was filed.

Since the attorney making the request does not have power of attorney, the correspondence address will not be changed (MPEP 405, 37 CFR 1.33(a)(2) and (b)).

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

RAR/tpl: 5/21/03

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Smyrski Law Group, A Professional Corporation
3310 Airport Avenue, SW
Santa Monica, CA 90405

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OFFICE OF PETITIONS

In re Application	:	
Ruben G. Duran	:	
Application No. 09/916,927	:	DECISION ON PETITION
Filed: July 27, 2001	:	
Attorney Docket No. Duran-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 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 file a proper reply in a timely manner to the non-final Office action mailed March 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 28, 2006. A Notice of Abandonment was mailed on October 11, 2006.

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

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

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [Emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 28, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as the applicant Ruben G. Duran at the time of abandonment, an explanation is required as to why this application became abandoned while it was under his control and what efforts were made by Ruben G. Duran to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing, a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned

application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons and/or the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/916,927	07/27/2001	Ruben G. Duran	Duran-1

CONFIRMATION NO. 8764

POA ACCEPTANCE LETTER

30438
SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA, CA 90405

OC000000037627292

Date Mailed: 09/02/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2009.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Smyrski Law Group, A Professional Corporation
3310 Airport Avenue, SW
Santa Monica, CA 90405

In re Application	:	
Ruben G. Duran	:	
Application No. 09/916,927	:	DECISION ON PETITION
Filed: July 27, 2001	:	
Attorney Docket No. Duran-1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed March 27, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 28, 2006. A Notice of Abandonment was mailed on October 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

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

This application is being referred to Technology Center AU 3693 for appropriate action by the Examiner in the normal course of business on the reply received July 20, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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

#3
C Barnes
4/8/02

F. CHAU & ASSOCIATES
1900 Hempstead Turnpike
Suite 501
East Meadow, NY 11554

In re Application of :
Castelli et al. :
Serial No. 09/916,935 : DECISION ON PETITION
Filed: July 27, 2001 :
For: METHOD AND APPARATUS FOR :
PREDICTION OF COMPUTER
SYSTEM PERFORMANCE BASED
ON TYPES AND NUMBERS OF
ACTIVE DEVICES

This is a decision on petition filed February 22,2002 under 37 CFR 1.48(a). Petitioner requests the inventorship be corrected. Petitioner alleges unintential ommission of one inventor.

The petition is GRANTED.

37 CFR 1.48(a) Correction of inventorship requires -

(a) If the correct inventor or inventors are not named in a nonprovisional application through error without any deceptive intention on the part of the actual inventor or inventors, the application may be amended to name only the actual inventor or inventors. Such amendment must be diligently made and must be accompanied by:

(1) a petition including a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred;

(2) an oath or declaration by each actual inventor or inventors as required by § 1.63;

(3) the fee set forth in § 1.17(h); and

(4) the written consent of any assignee. When the application is involved in an interference, the petition shall comply with the requirements of this section and shall be accompanied by a motion under § 1.634.

Petitioner submits (1) a petition, (2) an Oath/Declaration by each actual inventor as required by Rule 63, (3) the requisite fee, and (4) the written consent of the assignee.

The petition is GRANTED.

The application will be forwarded to application branch to correct the inventorship. The inventorship will then be -

Vittorio Castelli; Peter A. Franaszek; and Joy Aloysius Thomas.

Kevin Teska
Supervisory Patent Examiner
Technology Center 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Edward J. Lynch
DUANE MORRIS LLP
ONE MARKET
SPEAR TOWER, SUITE 2000
San Francisco CA 94105

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of
Lubock, et al.
Application No. 09/916,937
Filed: July 21, 2001
Attorney Docket No. R0367-02600
For: DILATION DEVICES AND METHODS FOR REMOVING TISSUE SPECIMENS

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed July 21, 2004, to delete a claim of priority.

The petition under 37 CFR 1.182 is **DISMISSED AS MOOT**. No petition fee has been charged.

Applicants have timely filed a RCE. Finality has been withdrawn. MPEP 201.11 Section G *Deleting Benefit Claims* states that "...applicants may cancel their claim to priority by amending the specification or submitting a new application data sheet (no supplemental declaration is necessary) to delete any references to prior application."

The application file will be forwarded to the examiner of record in Technology Center GAU 3736 for consideration of the RCE, amendment, and IDS filed on July 21, 2004. The examiner will consider whether any new prior art may now be available.

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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NOV 2 7 2001

OFFICE OF PETITIONS

MERCK AND CO INC
PO BOX 2000
RAHWAY, NJ 07065-0907

In re Application of :
Askew et al. :
Application No. 09/916,977 : ON PETITION
Filed: July 27, 2001 :
Attorney Docket No. 20009YDB :

This is a decision on the petition filed September 25, 2001, to accord the above-identified application a filing date of July 27, 2001, instead of July 28, 2001.

The petition is **granted**.

Petitioner has submitted the result of a search of an USPS database indicating the instant application was deposited with the USPS at 4:49pm on July 27, 2001.

Therefore, the application will be accorded a filing date of July 27, 2001.

In the future, any petition under 37 CFR 1.10 should be accompanied by a copy of the express mail label.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of July 27, 2001, and to treat petitioner's request to correct the Domestic Priority data. The file will then be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

USPTO's USPS Express Mail Information Database

EXPRESS MAIL
UNITED STATES POSTAL SERVICE

Express Mail Number: **EL523909858US**

Origin ZIP: 07065

Weight: 03 lbs. 11 ozs.

Postage Paid: $022.05

Date and Time* Package was accepted by USPS:	07/27/2001	04:49 pm
Attempted Delivery Date and Time:	07/28/2001	07:15 am
Actual Delivery Date and Time:	07/30/2001	09:07 am

***Also referred to as "Date In"**

Print Record | Preview Report | Print Report | Back

Monday, November 26, 2001 05:49 AM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/11/07

TO SPE OF : ART UNIT 2841 application # 09/916,990

SUBJECT : Request for Certificate of Correction on Patent No.: 6794582

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:

Item (56) Reference cited – NOT APPROVED.
Class / Subclass of many of the prior arts submitted by the applicant are not CURRENT or UPDATED.

IB Patel
ISHWAR PATEL
PRIMARY EXAMINER

Glenn A. Burchard
SPE

2841
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF KARL HORMANN
86 SPARKS STREET
CAMBRIDGE, MA 02138-2216

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Junghanns et al. :
Application No. 09/917,038 : ON PETITION
Filed: July 27, 2001 :
Attorney Docket No. Jungshamm et al.-1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 2, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response to Restriction Requirement; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

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.

Petitioner only submitted $650.00 towards payment of the $750.00 petition fee. However, petitioner's deposit account was subsequently charged $1500.00. Accordingly, $1400.00 will be credited to petitioner's deposit account, as authorized, and $100.00 will be applied towards the petition fee.

This matter is being referred to Technology Center 1600 for further examination on the merits.

---

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576-1696

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

BERRY & ASSOCIATES P.C.
9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES, CA 90069

Mail Date: 04/21/2010

Applicant	: Najeeb Abdulrahiman	: DECISION ON REQUEST FOR
Patent Number	: 7610350	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/917,070	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1006** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 8

DAVID T. BRACKEN
THE LAW OFFICE OF DAVID T. BRACKEN
4839 BOND AVENUE
ORANGE, CA 92869

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MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Abdeltif Essalik et al :
Application No. 09/917,072 : ON PETITION
Filed: July 26, 2001 :
Attorney Docket No. 9911.1aV1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 20, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 21, 2002.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

The file is being forwarded to Technology Center 1744.

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

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JJGJr: 09-03

Paper No: 12

JOSEPH K. MOSIS
1125 CRESCENT DR.
BRENTWOOD CA 94513

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SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of:	:	ON PETITION
Mosis.	:	
Filed: 30 July, 2001	:	
Application No. 09/917,081	:	
Docket No.: (None)	:	

This is a decision on the petition filed herein on 5 September, 2003, under 37 C.F.R. §1.137(a) to revive the above-identified application, and in light of the allegations (alleged timely receipt and agreement by an unidentified person at the Office to withdraw the holding of abandonment) considered as a petition to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition:

- the petition as considered under 37 C.F.R. §1.181 to withdraw the holding of abandonment is **DISMISSED**; and
- 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 indicates that:

- Petitioner/Applicant Joseph K. Mosis (Petitioner) failed to reply timely and properly to the non-final Office action mailed on 9 April, 2002, and due (absent extension of time) on or before 9 July, 2002;

- the application was deemed abandoned after midnight 9 July, 2002;

- on 13 January, 2003, papers were filed via FAX by an individual identified as Gabrielle Tetreault, Esq.," but who for whom there is neither a registration number listed with the Office nor a Power of Attorney executed by the Petitioner herein--and those papers were not entered;

- Notice of Abandonment was mailed on 24 June, 2003, and contained a discussion that the Petitioner herein might consider requesting the withdrawal of the holding of abandonment or alternatively petitioning to revive the application as having been abandoned due to unavoidable delay or unintentional delay;

- Petitioner filed the instant petition more than two months later, alleging, erroneously, that:

  --the Office agreed to withdraw the holding of abandonment (thus, reason for consideration under 37 C.F.R. §1.181); and

  --alternatively seeking revival of the application under 37 C.F.R. §1.137(a) because a reply was submitted, via Federal Express (Tracking No. 834671723937) on 5 July but not delivered until 12 July, 2002;

- a document styled "Response to Office Action Summary Dated April 9, 2002" was submitted in the 13 January, 2003, FAX materials, and Petitioner indicates this is the required 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).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to Withdraw the Holding of Abandonment and the Petition Alleging Unavoidable Delay

Petitioner contends that he submitted the reply timely via Federal Express, however, that courier

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

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

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

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

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

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

was not able to deliver the materials until 12 July, 2003--three days after the end of the shortened statutory period.

Because Petitioner alleges that the holding of abandonment was improper, the instant petition is considered in light of the regulations at 37 C.F.R. §1.181.

Petitioner could have submitted the required reply:

- via US Postal Service (USPS) first class mail or via FAX under the provisions of 37 C.F.R. §1.8 with a certificate of mailing via first class mail or certificate of FAX transmission, respectively; or

- via USPS Express Mail under the provisions of 37 C.F.R. §1.10 with a certificate of Express Mail identifying the submission with the Express Mail label number.

Petitioner chose none of those alternatives.

Applicants and practitioners who fail to use the rules and procedures set out by the Office to benefit their practice before it, not surprisingly also fail to gain those very benefits.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Petitioner has alleged but failed to evidence that the Office improperly deemed the instant application abandoned because the necessary reply was timely submitted under the rules and/or received, and thus fails to satisfy the requirements for having the holding of abandonment withdrawn.

A delay is not "unavoidable" when an applicant simply fails to file properly and timely the required reply and so permits the maximum extendable statutory period for reply to expire.[9]

In determining if a delay was unavoidable, decisions on reviving abandoned applications have adopted the standard of the reasonably prudent person acting in their most important business matters.[10]

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

[9] See MPEP 711.03(c)(III)(C)(2).

[10] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[11]

Petitioner simply failed to file a timely and proper response to the non-final Office action.

Such practice clearly does not satisfy the Pratt requirements of diligence in attending to one's most important business affairs.

Therefore, Petitioner fails to satisfy the showing as required under 37 C.F.R. §1.137(a).

Accordingly, Petitioner has failed to establish to the satisfaction of the Commissioner that the delay was "unavoidable" within the meaning of 37 C.F.R. §1.137.[12]

It is noted that, as of this writing, it does not appear that the fee for the petition under 37 C.F.R. §1.137(a) was submitted with the petition (notwithstanding the contrary statement in the petition that a fee of "$55" was submitted--this is erroneously set forth as an Issue Fee).

CONCLUSION

Because Petitioner failed to satisfy the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 must be and hereby is **dismissed**.

Moreover, the circumstances of this application do not demonstrate as of this writing that the delay in filing the first petition was/is within the statutory and regulatory meaning of unavoidable delay--and the instant petition fails to satisfy the "showing" requirement as to relief sought and the "fee" requirement of the regulations.

Therefore, in the absence of those requirements, the petition herein 37 C.F.R. §1.137(a) must be and hereby is **dismissed**.

ALTERNATIVE VENUE

It appears that Petitioner is unable to make a showing of unavoidable delay surpassing that tendered heretofore, and, therefore, Petitioner's only alternative to irretrievable abandonment likely is to file a petition and fee as set forth at NOTE 1, above at page 2, under 37 C.F.R. §1.137(b), and state therein that "the entire delay in filing the required reply from the due date for

---

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

[12] See Application of G, 11 USPQ2d at 1380; In re Application of S, Id.

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 his petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing " burden is much less onerous.

Petitioner is cautioned that failure to submit such a petition 37 C.F.R. §1.137(b) timely may be viewed as intentional delay and an absolute bar to revival.

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

By mail: (Effective 1 May, 2003)[13]
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 decision may be directed to the undersigned at (703) 305-9199.

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

[13] 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

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ALEXANDRIA, VA 22313-1450
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JJGJr: 01-04

Paper No. 18

MORLAND C. FISCHER
2030 MAIN STREET/SUITE 1050
IRVINE, CA 92614

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JAN 2 9 2004
OFFICE OF PETITIONS

In re Application of:	:	ON PETITION
Mosis	:	
Filed: 30 July, 2001	:	
Application No. 09/917,081	:	
Docket No.: JKM-101	:	

This is a decision on the petition filed herein on 10 November, 2003, under 37 C.F.R. §1.137(b) to revive the above-identified application as abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

NOTES:

(1) The Power of Attorney filed contemporaneously with the petition hereby is acknowledged and accepted.

(2) In his papers, Petitioner has incorrectly identified the Art Unit–the correct listing is AU 3751.

BACKGROUND

The record indicates that:

- Applicant Joseph K. Mosis (Petitioner) failed to reply timely and properly to the non-final Office action mailed on 9 April, 2002, and due (absent extension of time) on or before 9 July, 2002;

- the application was deemed abandoned after midnight 9 July, 2002;

- on 13 January, 2003, papers were filed via FAX by an individual identified as Gabrielle Tetreault, Esq.," but for whom there is neither a registration number listed with the Office nor a Power of Attorney executed by the Petitioner herein--and those papers were not entered;

- Notice of Abandonment was mailed on 24 June, 2003, and contained a discussion that the Petitioner herein might consider requesting the withdrawal of the holding of abandonment or alternatively petitioning to revive the application as having been abandoned due to unavoidable delay or unintentional delay;

- more than two months later, Mr. Mosis filed a petition alleging, erroneously, that: the Office agreed to withdraw the holding of abandonment (thus, reason for consideration under 37 C.F.R. §1.181); alternatively seeking revival of the application under 37 C.F.R. §1.137(a) because a reply was submitted, via Federal Express (Tracking No. 834671723937) on 5 July but not delivered until 12 July, 2002; and a document styled "Response to Office Action Summary Dated April 9, 2002" was submitted in the 13 January, 2003, FAX materials, and Petitioner indicated this was the required reply;

- on 15 September, 2003, the petitions under 37 C.F.R. §1.137(a) and as considered under under 37 C.F.R. §1.181 were dismissed;

- the instant petition was filed on 10 November, 2003, accompanied by a Power of Attorney (discussed above) and an Amendment.

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

---

[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.

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 Petition
Alleging Unintentional Delay

Petitioner has submitted the petition with fee and the reply and has made the statement of unintentional delay.

CONCLUSION

Petitioner has satisfied the regulatory requirements, and the petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant file is forwarded to Technology Center 3700 for further processing.

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[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.

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

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

Leland K. Jordan
1235 Thunder Hill Road
Lincoln University, PA 19352

COPY MAILED

SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Steven J. Furnace	:	
Application No. 09/917,112	:	DECISION ON PETITION
Filed: July 7, 2001	:	TO WITHDRAW
Attorney Docket No. LKJ-162A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **requested by assignee....**, do not meet any the conditions set forth in 37 CFR 10.40 because the assignee has not intervened in accordance with 37 CFR 3.71 and no statement under 37 CFR 3.73(b) has been filed.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Dien Potter for

Amelia Au
Petitions Examiner
Office of Petitions

cc: Mr. Joe Erway
Digital Diagnostics Systems
3241 Fitzgerald Road
Suite 1
Rancho Cordova, CA 95742

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 09-01

Paper No. 4

JEFFREY FURR
176 SARATOGA DRIVE
JOHNSTOWN, OH 43031

COPY MAILED

SEP 28 2001

OFFICE OF PETITIONS

In re Application of	:
Huitt, Bauman, Gubitose, and	:
Wieslaw	: DECISION REFUSING STATUS
Application No. 09/917,183	: UNDER 37 CFR 1.47(a)
Filed: 27 July, 2001	:
Attorney Docket No.	:

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 27 July, 2001.

The petition is **DISMISSED**.

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

The above-identified application was filed on 27 July, 2001, with a declaration naming Bruce Huitt, Kenneth Bauman, Christopher Gubitose, and Mroz Wieslaw as joint inventors and signed by joint inventor Gubitose on behalf of himself and the other joint inventors. The present petition was also filed, in which petitioners assert that joint inventors Huitt and Bauman are unavailable to sign the declaration.

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

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

The petition lacks item (3). Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[2] As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted. Any request for reconsideration of this petition must be accompanied by the petition fee.

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

[2] 37 CFR 1.22(a).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 04-02

Paper No. 6

JEFFREY FURR
176 SARATOGA DRIVE
JOHNSTOWN, OH 43031

COPY MAILED

APR 1 2 2002

OFFICE OF PETITIONS

In re Application of	: NOTICE OF FEE DEFICIENCY,
Huitt, Bauman, Gubitose, and	: NOTICE OF
Wieslaw	: INCOMPLETE REPLY,
Application No. 09/917,183	: AND
Filed: 27 July, 2001	: DECISION REFUSING STATUS
Attorney Docket No.	: UNDER 37 CFR 1.47(a)

This is a decision on the paper styled "Petition for Unavailable Inventors for the RF MULTIPLE LOAD CELL SCALE Patent Application No 09/917,183" filed on 8 January, 2002, which is treated as a renewed petition under 37 CFR 1.47(a).

The petition is **dismissed**.

NOTICE OF FEE DEFICIENCY

On 8 January, 2002, petitioners submitted $710.00 in response to the Notice to File Missing Parts mailed on 13 September, 2001. However, the statutory basic filing fee became $740.00 effective 1 October, 2001. Any fee paid on or after 1 October, 2001, must be paid in the revised amount. Petitioner is responsible for ensuring that the fee is submitted in the correct amount. Therefore, a deficiency of **$30.00** is due and must be submitted with any request for reconsideration.

NOTICE OF INCOMPLETE REPLY

The present petition filed on 8 January, 2002,[1] in reply to the decision mailed on 28 September, 2001, which set a two (2) month period for reply is incomplete in that no extension of time was filed therewith. The period for reply remains as set forth in

[1]It is noted that the petition says that it was [s]igned ... this 13th day of November, 2001." As the petition does not contain a certificate of mailing in accordance with 37 CFR 1.8, the actual date of receipt will be used.

the decision mailed on 28 September, 2001. **FAILURE TO FILE A TIMELY RESPONSE WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time are available under 37 CFR 1.136(a).

While issues pertaining to acceptance of an incomplete reply are moot, in the interests of facilitating prosecution and conservation of PTO resources, the petition under 37 CFR 1.47(a) will be discussed on its merits.

PETITION UNDER 37 CFR 1.47(a)

The above-identified application was filed on 27 July, 2001, with a declaration naming Bruce Huitt, Kenneth Bauman, Christopher Gubitose, and Mroz Wieslaw as joint inventors and signed by joint inventor Gubitose on behalf of himself and the other joint inventors. The petition filed with the application papers on 27 July, 2001, was dismissed out of hand on 28 September, 2001, because the petition fee had not been submitted. The present renewed petition is accompanied by the petition fee.

Petitioners assert that joint inventors Huitt and Wieslaw are unavailable for signature of 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 items (1) and (2).

In regards to item (1), petitioners have not shown that diligent efforts have been made to locate the non-signing inventors.[2] Petitioners should send or give a copy of the application papers to the non-signing inventors for review, with a request that the

[2] MPEP 409.03(d).

inventors sign and return the declaration. Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

If the inventor(s) refuse in writing to sign the declaration, petitioners should supply 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.

Alternatively, if the application is returned as undeliverable by the post office, petitioners should submit a copy of the envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

In regards to item (2) the declaration filed on 27 July, 2001, is defective in that it (a) contains uninitialed/undated alterations for joint inventors Huitt and Bauman, and (b) lacks the citizenship for joint inventor Wieslaw. With regard to joint inventor Huitt, there are initialed but undated alterations to the residence and mailing address for this inventor. As Huitt did not sign the declaration, it is unclear who initialed the changes in his signature block. In any event, a new oath or declaration containing the correct information for joint inventor Huitt and signed by all of the signing inventors must be provided.

With regard to joint inventor Bauman, it is noted that Bauman's signature block has been crossed-out, and "no longer with the company" is written in the margin next to Bauman's signature block. 37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63. As such, Bauman is a joint inventor of this application. If it has since been determined that Bauman is not a joint inventor of this application, a petition under 37 CFR 1.48 should be filed to amend the inventive entity by deleting Bauman as an inventor. Furthermore, an oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by 1.42, 1.43, or § 1.47 is required.

Lastly, the declaration supplied with the application papers also lacks the citizenship of joint inventor Wieslaw.[3] A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[4]

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.

DWood

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

[3] MPEP 605.01.

[4] 35 U.S.C. § 115, MPEP 605.01.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 09-02

Paper No. 9

JEFFREY FURR
253 N. MAIN STREET
JOHNSTOWN OH 43031

COPY MAILED

SEP 19 2002

OFFICE OF PETITIONS

In re Application of	:
Huitt, Bauman, Gubitose, and	:
Wieslaw	: DECISION ACCORDING STATUS
Application No. 09/917,183	: UNDER 37 CFR 1.47(a)
Filed: 27 July, 2001	:
Atty Dkt No. 38,146	:

This is in response to the twice renewed petition under 37 CFR 1.47(a), filed by facsimile on 9 September, 2002.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Kenneth Bauman cannot be found. Specifically, petitioners have shown that a letter was sent via first class mail to the last known addresses of the non-signing joint inventor was returned by the U.S. Post Office 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.

Petitioners should note that the order of inventors names is as set forth in the declaration filed on 27 July, 2001.

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
www.uspto.gov
DIW 09-02

COPY MAILED
SEP 19 2002
OFFICE OF PETITIONS

Kenneth Bauman
106 Briarwood Road
Spartanburg, SC 29301

In re Application of
Huitt et al.
Application No. 09/917,183
Filed: 27 July, 2001
For: INTERNET SCALE

Dear Mr. Bauman:

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).

D Wood

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

JEFFREY FURR
253 N. MAIN STREET
JOHNSTOWN OH 43031

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

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAIL

JAN 3 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/917,195

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
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Granoff et al.	:	
Application No. 09/917,222	:	ON PETITION
Filed: July 27, 2001	:	
Attorney Docket No. CHOR-001	:	

This is a decision on the "REQUEST UNDER 37 C.F.R. §1.705(b) FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed January 19, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased by one hundred forty-seven (147) days, from one hundred seventy-three (173) days to three hundred twenty (320) 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-one (321)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 21, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 173 days. On January 19, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the period of adjustment for Office failure to mail a first action under 35

[1] PALM records indicate that the Issue Fee payment was received on March 15, 2005.

U.S.C. 132. Applicants maintain that in accordance with 37 C.F.R. 1.703, the period of adjustment for Office delay in mailing the first Office action under 35 U.S.C. 132 is 405 days. Specifically, applicants state that such action was mailed on November 7, 2003, 405 days after the fourteen-month date.

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

A review of the application history confirms that the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on November 7, 2003, is 406 (not 405) days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), September 28, 2002, and ending on the date of the mailing of the first action under 35 U.S.C. 132, November 7, 2003.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred twenty-one (321) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

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

Kery A. Fries
for

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

Attachment: Copy of Revised PAIR Screen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 12

DATE : February 27, 2004

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction on Patent No.: 6,612,995

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.

Please See the Foreign Application Priority Data

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:

Acting **SPE**

3736
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Fish & Richardson
12390 El Camino Real
San Diego, CA 92130-2081

COPY MAILED

NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Warren Dalziel :
Application No. 09/917,250 :
Filed: July 27, 2001 :
Attorney Docket No. 08173-048001/ :

ON PETITION

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

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed February 12, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. Accordingly, the above-identified application became abandoned on May 13, 2003.

The application is being forwarded to Technology Center AU 2652 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/917,264	07/27/2001	Colin P. Britton	0103488-00003	7813

21125 7590 10/07/2003

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

EXAMINER
ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
2175	14

DATE MAILED: 10/07/2003

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

COPY MAILED

OCT 0 7 2003

OFFICE OF PETITIONS

In re Application of
Colin P. Britton, et al.
Application No. 09/917,264
Filed: July 27, 2001
Attorney Docket No. 0103488-00003

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 2, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 15, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country. Petitioner explains that it was believed that the filing of a "'PCT Request' with the USPTO United States Receiving Office fully met their obligation under 35 U.S.C. 112(b)(2)(B)(iii) to notify the USPTO of the foreign or international filing of such invention."

37 CFR 1.213(c) requires the applicant to provide notice, and 37 CFR 1.4(b) provides that each application must be complete in itself. An international application would not be placed into the file of an application that it relies upon for the benefit of an earlier filing date, and so applicant was required to file a separate paper pursuant to 37 CFR 1.4(b) in the above-identified application. Therefore, the mere filing of a PCT application is not the notification required by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c). Petitioner's attention is also directed to 37 CFR 1.4(c), which states:

> 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.

Pursuant to 37 CFR 1.4(c), the separate paper was required to address a distinct subject. Therefore, since a notification of foreign filing was required to be on a separate paper, the filing of the PCT application did not serve as the notification of foreign filing required by 35 U.S.C. § 122(b)(2)(B)(iii). It should be noted that the USPTO acts in a distinctly separate capacity, and in

a dedicated, separate part of the Office, when it acts as a Receiving Office for the filing of applications and papers under the PCT. Accordingly, as a review of the contents of the file of the above-identified application shows that no notification of the May 15, 2002 filing of the PCT application was filed within 45 days after the filing date of the PCT application, applicants' failure to provide such timely notice of the filing of the PCT application, pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), caused the above-identified application to become abandoned by operation of law after midnight June 29, 2002.

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.

There is no indication that a reply to the non-final Office action of June 18, 2003 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of June 18, 2003 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

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

This application is being returned to Technology Center Art Unit 2175 to await a reply to the non-final Office action mailed June 18, 2003, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

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

Conferee: Frances M. Hicks
Lead Petitions Examiner

Docket No.: C1104.70075US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kevin J. Dowling et al.
Serial No.:	09/917294
Confirmation No.:	8108
Filed:	July 26, 2001
Patent No.:	7031920
For:	LIGHTING CONTROL USING SPEECH RECOGNITION
Examiner:	S. I. McFadden
Art Unit:	2655

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please enter

Dear Sir:

/HV/

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected. The priority information listed is incorrect. Please note that Applicant is attaching a copy of the Preliminary Amendment filed December 17, 2003. This Amendment was obviously entered, as evidenced by Column 1, lines 6-57 of the issued patent.

The errors were not in the application as filed by applicant; accordingly no fee is required.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081104

DATE : December 1, 2008

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction on Patent No.: 7031920

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:

Please enter

SPE: /Patrick Edouard/ **Art Unit** 2626

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/8/09

TO SPE OF : ART UNIT 2626 Edouard Patrick (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/917294 Patent No.: 7031920

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: Please enter

SPE

Art Unit

PTO-368 (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. 8

Royal W. Craig
Law Offices of Royal W. Craig
Suite 1319
210 N. Charles Street
Baltimore, MD 21201

COPY MAILED

DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Linda Sweeting	:	
Application No. 09/917,308	:	DECISION ON PETITION
Filed: July 27, 2001	:	
Attorney Docket No. SWEETING-PA-1	:	

This is a decision on the "PETITION TO REVIVE APPLICATION PURSUANT TO 37 CFR 1.137(b)," filed August 30, 2004.

The petition under § 1.137(b) is **DISMISSED**. For the reasons set forth herein, the petition and election as filed cannot be accepted. Proof of authority to take action in this application 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(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

The above-identified application became abandoned for failure to timely file a proper reply to the restriction requirement mailed July 15, 2003. This Office action set a shortened statutory period for reply of one month, with extensions of time obtainable under § 1.136(a). No reply having been received in the Office and no extension of time obtained, the above-identified application became abandoned on August 19, 2003. A Notice of Abandonment was mailed on February 5, 2004.

The instant petition was filed by Royal W. Craig as "attorney of record." Therein, attorney Craig acknowledges that sole inventor Linda Sweeting died on or about Sunday, September 23, 2003. The petition suggests that attorney Craig may be acting on behalf of Towson University, as assignee, in filing of the instant petition. However, attorney Craig has not provided evidence of an assignment of this application to either himself or Towson University. Nor has attorney Craig presented a power of attorney

to himself from the heirs, administrators, executors, or assignees.

35 U.S.C. 117 Death or incapacity of inventor.

> Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

MPEP 409.01 Death of Inventor, provides that:

> Unless a power of attorney is coupled with an interest (i.e., an attorney is assignee or part-assignee), the death of the inventor (or one of the joint inventors) terminates the power of attorney given by the deceased inventor. A new power from the heirs, administrators, executors, or assignees is necessary if the deceased inventor is the sole inventor or all powers of attorney in the application have been terminated (but see MPEP § 409.01(f)). See also 37 CFR 1.422.

Moreover, the provisions of 37 CFR 3.71(b)(1) and (2) identify the owner or assignee that can take action in patent matters, e.g., the assignee which may conduct the prosecution of a U.S. national application for a patent (35 U.S.C. 111(a)), or any other patent proceeding (e.g., a reexamination proceeding, an interference proceeding). A national patent application is owned by one of the following individual or composite entities:

> (A) the inventor(s);
> (B) an assignee or multiple assignees of the inventor(s); or
> (C) some combination of the assignee(s), and inventor(s) who have not assigned away their right, title and interest in the application. Pursuant to 37 CFR 3.73(b), a party must be established as the assignee by satisfying the requirements of that subsection, in order to be recognized as an owner or part owner, for purposes of taking action in patent matters before the Office.

37 CFR 3.73. Establishing right of assignee to take action.

> (a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. ...
>
> (b)(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership

may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

(c) For patent matters only:
(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.

(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

The instant application was filed by sole inventor Sweeting, with a power of attorney given to attorney Royal W. Craig. The record before the undersigned reveals no assignment of the application to either attorney Craig or Towson University[1]. Attorney Craig states that he is presently attorney of record in the case. However, as provided in MPEP 409.01 , the death of the inventor terminated the power of attorney given by inventor Sweeting. The petition does not include a new power of attorney to attorney Craig.

Furthermore, attorney Craig describes Towson University as having an interest in this application, and states that they made a decision to pursue this application. However, Towson University has not established, pursuant to 37 CFR 3.73(b), their right to take action in this application. The petition does not meet the requirements for attorney Craig to take action in this application on behalf of Towson University. In order for the instant petition and response to be accepted, it must be established that Towson University has such a right to take action in this application, and that, a power of attorney to attorney Craig has been given by Towson University.

---

[1] It is acknowledged that the application as filed included a verified statement claiming small entity status identifying Towson University as a non profit organization having interest in the application.

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

Paper No. 7

Maryam Imam
Law Offices of IMAM
Suite 1010
111 North Market Street
San Jose, CA 95113

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FEB 1 9 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Hown Cheng et al.
Application No. 09/917,312
Filed: July 27, 2001
Attorney Docket No. Stream-09US

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Noitce to File Corrected Application Papers (Notice) mailed September 4, 2001, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on November 5, 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 $930 extension of time submitted with the petition on January 29, 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 Latrice Bond at (703) 308-6911.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

MCKENNA LONG & ALDRIDGE LLP
SONG K. JUNG
1900 K STREET, N.W.
WASHINGTON, DC 20006

COPY MAILED
JUN 0 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Jeong, In Kwon	:	
Application No. 09/917,344	:	ON PETITION
Filed: July 27, 2001	:	
Attorney Docket No. 9323.050.00-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 2, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 3, 2003. A Notice of Abandonment was mailed on November 19, 2003.

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

The file is now being forwarded to Technology Center 1700 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

MAILED

APR 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Beyda et al.	:	
Application No. 09/917,373	:	DECISION ON PETITION
Filed: July 27, 2001	:	
Attorney Docket No. 2001P13459US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to rely in a timely manner to the non-final Office action mailed August 24, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, by operation of law, the above-identified application became abandoned on November 25, 2006. A Notice of Abandonment was mailed May 16, 2007.

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

The instant petition lacks item (3). Petitioner is required to submit a statement that the entire delay was unintentional. A PTO/SB/64 petition form is enclosed.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/64 form

cc: David D. Chung
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 23

PAUL J. WHITE
NATIONAL RENEWABLE ENERGY LABORATORY
1617 COLE BLVD
GOLDEN, CO 80401

COPY MAILED

NOV 21 2003

OFFICE OF PETITIONS

In re Application of :
Shi-You Ding et al :
Application No. 09/917,376 :
Filed: July 28, 2001 :
Attorney Docket No. NREL 01-36

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 1652.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lathrop & Gage LC
4845 Pearl East Circle
Suite 300
Boulder, CO 80301

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APR 11 2005

OFFICE OF PETITIONS

In re Application of :
Shi-You Ding, et al. :
Application No. 09/917,376 :
Filed: July 28, 2001 :
Attorney Docket No. NREL 01-36 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on June 16, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on September 17, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the $900 extension of time fee submitted with the present petition was subsequent to the six-month statutory period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER CO 80301

COPY MAILED

MAR 2 9 2007

OFFICE OF PETITIONS

In re Application of :
SHI-YOU DING et al. :
Application No.09/917,376 : DECISION ON PETITION
Filed: July 28, 2001 :
Attorney Docket No. NREL 01-36 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 18, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 19, 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 an amendment, Request for Continued Examination, and the $790 filing fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of April 18, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Jean F. Duverne at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1652 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

PAUL J. WHITE
NATIONAL RENEWABLE ENERGY LABORATORY
1617 COLE BLVD
GOLDEN, CO 80401

COPY MAILED

NOV 17 2003

OFFICE OF PETITIONS

In re Application of :
Shi-You Ding et al :
Application No. 09/917,378 :
Filed: July 28, 2001 :
Attorney Docket No. NREL 01-35

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 1600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul J. White, Senior Counsel
National Renewable Energy Laboratory (NREL)
1617 Cole Boulevard
Golden, CO 80401-3393

COPY MAILED

MAR 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Shi-You Ding, et al.	:	
Application No. 09/917,378	:	ON PETITION
Filed: July 28, 2001	:	
Attorney Docket No. NREL 01-35	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement 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 the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 18

PAUL J. WHITE
NATIONAL RENEWABLE ENERGY LABORATORY
1617 COLE BLVD
GOLDEN, CO 80401

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NOV 17 2003

OFFICE OF PETITIONS

In re Application of
William Adney et al
Application No. 09/917,384
Filed: July 28, 2001
Attorney Docket No. NREL 01-38

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 1652.

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

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

PAUL J WHITE SENIOR COUNSEL
NATIONAL RENEWABLE ENERGY LABORATORY (NREL)
1617 COLE BOULEVARD
GOLDEN CO 80401-3393

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JUN 07 2004
OFFICE OF PETITIONS

In re Application of	:	
Adney, et al.	:	
Application No. 09/917,384	:	ON PETITION
Filed: July 28, 2001	:	
Attorney Docket No. NREL 01-38	:	

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

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 7, 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 November 8, 2003. A Notice of Abandonment was mailed on May 14, 2004.

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

The application file is being forwarded to Group Art Unit 1652 for consideration of the amendment filed May 24, 2004.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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FEB 21 2007

OFFICE OF PETITIONS

In re Application of
CONNER
Application No. 09/917,392
Filed: July 27, 2001
Attorney Docket No. H0001551

: DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed November 29, 2006, 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 "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 application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 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 January 18, 2005.[1] A Notice of Abandonment was mailed September 7, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (1) and (3).

[1] The amendments filed on January 25, 2005 and February 14, 2005 are labeled proposed amendments. The response filed on August 11, 2006 was untimely, because it was submitted beyond the statutorily mandated period for response set forth in 35 U.S.C. § 133, and should not be treated by the examiner.

Regarding item (1), a reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) or cancellation of, or appeal from the rejection of, each claim so rejected within the statutorily permitted period for response. The petition makes reference to the filing of an RCE on February 18, 2005 and the inclusion of a copy of the RCE with the instant petition. However, neither the original RCE nor the copy is located in the record. Accordingly, the reply to the final Office action of October 18, 2004 required for granting a petition to revive has not been received.

As to item (3), the petitioner argues that the RCE was timely filed on February 18, 2005 and, in essence, takes the position that there was no 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). As stated previously, however, a review of the file does not include the RCE purportedly filed on February 18, 2005 or the copy of the RCE stated to have been submitted with the instant petition. At present, because there is no evidence of an RCE being filed timely, petitioner has not shown to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable.

In order to satisfy requirement (3), the petitioner must demonstrate the timely filing of an RCE using the procedures set forth in 37 CFR 1.8 or a post-card/electronic acknowledgement receipt. For example, petitioner may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. Where a certificate of mailing under 37 CFR 1.8 is relied upon in a petition, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3), the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since a $1020 extension of time fee submitted with the amendment filed on August 11, 2006 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

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 Denise Pothier at (571) 272-4787.

Frances Hicks
Lead Paralegal
Office of Petitions

cc: Black Lowe Graham
701 Fifth Avenue, Suite 4800
Seattle, WA 98104

UNITED STATES PATENT AND TRADEMARK OFFICE

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101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
CONNER :
Application No. 09/917,392 : ON PETITION
Filed: July 27, 2001 :
Attorney Docket No. H0001551 :

This is a decision on a renewed petition under 37 CFR 1.137(a), filed April 20, 2007 and re-filed May 9, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) a required reply in the form of a Request for Continued Examination (RCE) and a submission in the form of the amendment filed December 3, 2004; (2) the petition fee of $500.00; and (3) a showing to the satisfaction of the Commissioner that the entire delay was unavoidable.

Please note that the August 11, 2006 amendment was untimely filed beyond the maximum statutory period for response to the October 18, 2004 final office action and has not been entered into the record.

The power of attorney submitted with the renewed petition is not acceptable. In order to request or take action in a patent matter, the assignee must establish its ownership pursuant to 37 CFR 3.71. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). See PTO/SB/96. Neither the power of attorney submitted nor the record includes one of the above two options.

The filing of the RCE on February 18, 2005 required a one-month extension of time fee ($120). As the RCE authorizes, this fee will be charged to Deposit Account No. 50-1050. Additionally per petitioner's request for refund on April 20, 2007, the difference ($900) between the extension

of time fee ($1020) charged August 11, 2006 and the one month extension of time fee ($120) required for the RCE will be credited to petitioner's deposit account.

The application file is being forwarded to the Technology Center Art Unit 2628 for further processing.

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

Frances Hicks
Lead Paralegal
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins CO 80527-2400

MAILED

JAN 12 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
HAO, MING C., et al
Serial No.: **09/917,393**
Filed: July 27, 2001
For: **METHOD FOR VISUALIZING LARGE VOLUMES OF MULTIPLE-ATTRIBUTE DATA WITHOUT AGGREGATION USING A PIXEL BAR CHART**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, July 27, 2001, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 6a, 6b, and 6c, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The petition is DENIED.

The petition was filed without the required 3 (three) sets of color drawings in question.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include correction of the deficiency outlined above. The application will be held in the Technology Center for two months to await any request for reconsideration of this decision.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 14

FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

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SEP 25 2003

OFFICE OF PETITIONS

In re Application of :
Henry A. Hill :
Application No. 09/917,400 : NOTICE
Filed: July 27, 2001 :
Attorney Docket No. 11540-005001 :

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 2878.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
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Paper No. 8

MARC M. WEFERS
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110-2804

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Henry A. Hill et al :
Application No. 09/917,402 :
Filed: July 27, 2001 :
Attorney Docket No. 11540-003001/ZI-15-MASKS

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 2600.

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

Transaction List

Search by

Accounting Date: (MMDDYY) Operator ID:

Accounting Date Starts: Ends:

Name/Number: 09917402

Attrny Docket No:

Deposit Account No.:

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Accounting Date	Operator ID	Seq. No.	Txn Src	Fee Code	St	Amount	Name/Number	Dep Acct
02/05/2002	NMOHAMM1	135	SALE	205	A	65.00	09917402	
02/05/2002	NMOHAMM1	134	SALE	203	A	126.00	09917402	
02/05/2002	NMOHAMM1	133	SALE	201	A	370.00	09917402	
01/17/2002	LMUELLER	75	SALE	581	A	40.00	09917402	

OK Adjustment Detail Authorization Detail Print Screen

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Adjustment date: 09/16/2003  CNGUYEN
02/05/2002 NMOHAMM1 00000060 09917402
01 FC:201                    -370.00 OP
02 FC:203                    -126.00 OP
03 FC:205                     -65.00 OP
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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DEC 08 2005

OFFICE OF PETITIONS

In re Application of :
Taylor R. Efland et al. :
Application No. 09/917,419 :
Filed: July 30, 2001 :
Attorney Docket No. TI–31306 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed November 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on December 22, 2004, for failure to timely file a reply to the final Office action mailed September 21, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed August 23, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $ 1500.00; and (3) an adequate statement of unintentional delay.

The Examiner has determined that the amendment filed with the present petition is

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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)).

acceptable. The matter therefore is being referred to Technology Center 2814.

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

#4

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

CHERNOFF VILHAUER MCCLUNG & STENZEL
1600 ODS TOWER
601 S W SECOND AVENUE
PORTLAND, OR 97204

COPY MAILED

OCT 1 2 2001

OFFICE OF PETITIONS

In re Application of :
Dirk Raschke :
Application No. 09/917,430 :
Filed: July 27, 2001 :
Attorney Docket No. KLR8190.001 :

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Initial Patent Examination Division for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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OCT 06 2005

OFFICE OF PETITIONS

In re Application of	:	
Zhong et al.	:	
Application No. 09/917,438	:	ON PETITION
Filed: July 27, 2001	:	
Attorney Docket No. 3275.28US01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 10, 2003, and no extensions of time under the provisions of 37 CFR 1.136(b) 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 February 11, 2004. See MPEP 1215.04. A Notice of Abandonment was mailed July 15, 2004.

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

A total of $1145.00 will be charged to petitioner's deposit account for payment of the $750.00 petition fee and the $395.00 RCE fee, as authorized.

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

H. DALE LANGLEY, JR.
THE LAW FIRM OF H. DALE LANGLEY, JR. PC
610 WEST LYNN
AUSTIN TX 78703

COPY MAILED

JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Edward Acosta, et al. :
Application No. 09/917,449 : ON PETITION
Filed: July 27, 2001 :
Attorney Docket No. BRDC:20 :

This is a decision on the petition under 37 CFR 1.137(b), filed by January 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed September 4, 2001. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge. A Notice of Abandonment was mailed on November 19, 2003

In response, on January 20, 2004, the present petition was filed, as well as an executed declaration under 37 CFR 1.63 and a $130 surcharge under 37 CFR 1.16(e).

In view of the above, the application is being returned to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper 11

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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MAY 15 2006
OFFICE OF PETITIONS

In re Application of
Karl Heinz-Schuster et al.
Application No. 09/917,504
Filed: July 27, 2001
Attorney Docket Number: (Z) 99069 P US

ON PETITION

This is a decision on the "Petition to Reconsider Holding of Abandonment under 37 CFR 1.181 and MPEP 711.03", filed July 25, 2004 by the previous attorney of record.

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED** as involving moot issues.

The application was held abandoned on September 2, 2003 for failure to timely file a response to the non-Final Office Action mailed May 29, 2003. No response having been filed, a Notice of Abandonment was mailed June 8, 2004.

Petitioner asserts that a response in the form of an amendment was mailed November 3, 2003 with a three month extension of time and credit card authorization for the extension of time fee. Provided as proof is a copy of the response and extension of time request, bearing a certificate of mail dated November 3, 2003.

A search of the application file and the USPTO records does not reveal receipt of the response, but in view of the evidence provided, the petition is compliant with 37 CFR 1.8(b) and accordingly, the abandonment is hereby withdrawn. No petition fee is necessary and none has been charged. However, the three month extension of time fee in the amount of $950, $258 for three independent claims over 3 and $972 for 54 claims over 20 have all been charged to deposit account no. 06-1050 per the verbal authorization of Sean P. Daley (Reg. No. 40,978), attorney of record, on May 12, 2006 in a telephone conversation with the undersigned.[1]

In view thereof, treatment of the petition under 37 CFR 1.137(a) is unnecessary.

This matter will be referred to Technology Center 2873 for appropriate action on the response originally filed on November 3, 2003 and resubmitted with the instant petition on July 25, 2004.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1]At the time the decision was rendered, the deposit account for the previous attorney of record was insufficient to cover the extension of time and additional claim fees.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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LEWIS B. STERNFELS
3100 INGLEWOOD BOULEVARD
LOS ANGELES, CA 90066-1062

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MAR 12 2004

OFFICE OF PETITIONS

In re Application of :
Arnold E. Goldman et al :
Application No. 09/917,578 : ON PETITION
Filed: July 28, 2001 :
Attorney Docket No. GCD 98-55-US :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed October 6, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 7, 2004.

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

The application is referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 14

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

COPY MAILED
DEC 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Chien The Huang	:	
Application No. 09/917,628	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. MR1957-572	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2006, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Robert H. Berdo, Jr. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Berdo desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. Until otherwise instructed, all future correspondence regarding this application will be directed solely to the address of record.

This application became abandoned for failure to timely reply to the final Office action mailed June 12, 2003. A Notice of Abandonment was mailed January 12, 2004. In response, on February 6, 2006 the present petition was filed including a Request for Continued Examination.

The petition is **GRANTED**.

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 3671, for further processing of the request for continued examination under 37 CFR 1.114 filed March 27, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ROBERT H. BERDO, JR.
RABIN & BERDO, PC
1101 14TH STREET, NW, SUITE 500
WASHINGTON, DC 20005

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Mailed: 5-17-06

In re application of	:	
Feldstein	:	DECISION ON
Serial No. 09/917,649	:	PETITION
Filed: July 31, 2001	:	
For: Fluidics System	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed December 13, 2005, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the "Extension of Time"; "Request for RCE" and "Transmittal to TC" be expunged and a refund of any fee charged as a result of the filing. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

09/917,649

The image of the document will be removed from the Official file and any fees charged as the result of the filing of the expunge papers will be refunded.

Jmstone

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

Joseph T. Grunkemeyer
Office of the Associate Counsel (Patents), Code 1008.2
Naval Research Laboratory
4555 Overlook Ave, SW
Washington, DC 20375-5325

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ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

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OFFICE OF PETITIONS

In re Application of
Feldstein
Application No. 09/917,649
Filed: July 31, 2001
Title: Fluidics System

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed June 8, 2006.

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

The petition to revive under 37 CFR 1.137(b) is **Granted**.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of October 7, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An amendment and RCE were filed on December 7, 2005. Petitioner filed a petition to expunge inter alia the RCE on December 13, 2005. The petition for expungement was granted on May 17, 2006. As a result the restriction requirement mailed on February 22, 2006 was withdrawn and the response to the restriction requirement was deemed as moot. The amendment submitted on December 7, 2005 was considered as a reply to the Final Office Action. An Advisory Action was mailed on May 30, 2006 informing applicant the response filed did not place the application in condition for allowance. Accordingly, this application became abandoned on January 8, 2006. A Notice of Abandonment was mailed on June 2, 2006.

Petitioner contends the holding of abandonment should be withdrawn because when the February 22, 2006 office action was mailed, the Office was aware the RCE was unintended. Further petitioner contends the Office Action failed to indicated the amendment would not be entered without the submission of an RCE.

Petitioner's argument has been considered but deemed unpersuasive. A review of the Office record shows that the submission of the an RCE for an incorrect application was

applicant's error. Once the documents were expunged from the record and the Office action was withdrawn prosecution returned to the treatment of the December 7, 2005 Amendment. Petitioner was not entitled to additional time to a reply to the Office Action. The non-final Office action provided a maximum statutory period of six months. Additional time could not be afforded nor could the Office action be withdrawn.

Pursuant to 37 CFR 1.116 (b), the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. Further MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Lastly, the submission of a petition does not toll the time for the prosecution of the application.

Alternative Venue

In the alternative, petitioner has requested the above petition be treated under 37 CFR 1.137(b).

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

Pursuant to petitioner's request deposit account no. 50-0281 will be charged the $1500.00 petition fee.

The application will be forwarded to Technology Center 1743 for treatment of the RCE.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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WASHINGTON, D.C. 2023
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Paper No. 5

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

MAILED

JUL 0 7 2003

Technology Center 2100

In re Application of:	)	
PARVATHALA, et al.	)	
Application No. 09/917,661	)	**DECISION ON REQUEST FOR**
Filed: July 31, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: FUNCTIONAL RANDOM INSTRUCTION TESTING (FRIT) METHOD FOR COMPLEX DEVICES SUCH AS MICROPROCESSORS	)	

This is a decision on the Request To Withdraw from Representation filed June 23, 2003.

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

The request filed June 23, 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. Matthew

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

cc: Anne Richards
SCHWEGMAN, LUNDBERT, WOESSNER &
KLUTH P.A.
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

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TROPIC NETWORKS INC.
DR. VICTORIA DONNELLY
135 MICHAEL COWPLAND DRIVE
KANATA ON K2M 2E9 CA CANADA

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MAR 2 8 2003

OFFICE OF PETITIONS

Applicant: Lee et al.
Appl. No.: 09/917,669
Filing Date: July 31, 2001
Title: CASCADED POLICING SYSTEMS AND METHODS
Attorney Docket No.: 78945-15/jlo
Pub. No.: US 2003/0028670 A1
Pub. Date: February 6, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 14, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the assignee information is missing from the front page of the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The instant request does not identify a material mistake in the publication made by the Office. The assignment information was not printed on the patent application publication, because it was not provided on the transmittal letter or on an application data sheet.[2] The Office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d)

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2100 to await further examination in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 9

RONALD P. KANANEN
RADER FISHMAN & GRAUER
SUITE 501, 1233 20 STREET N W
WASHINGTON, DC 20036

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AUG 1 9 2003

OFFICE OF PETITIONS

In re Application of
Dai Sugimoto et al
Application No. 09/917,681
Filed: July 31, 2001
Attorney Docket No. SON-1408/DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 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 January 7, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 8, 2003.

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

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 1713.

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
Alexandria, VA 22313-1450
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MS. PEGGI MCCONNELL
EARTHWALK COMMUNICATIONS, INC.
10262 BATTLEVIEW PARKWAY
MANASSAS, VA 20109

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OFFICE OF PETITIONS

In re Application of
Evan McConnell, Joseph
Caporaletti, Robert Vanderlip,
William Singleton, Anthony
Tomarchio, Tex Rubinowitz,
Bryan Smith and Mark Sebastian
Application No. 09/917,776
Filed: July 31, 2001
Title: MOBILE TEACHING SYSTEM

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 14, 2002, regarding non-signing inventors Joseph Caporaletti and Tex Rubinowitz. The petition was recently forwarded to this office for review.

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.

Please note, regarding non-signing inventor William Singleton, Applicant states:

> "Applicants respectfully submit that one of the inventors listed on the executed Joint Declaration is, in actuality, not an inventor of the claimed subject matter of the above-captioned patent application. Specifically, William Singleton has indicated, upon

> review of the application and claimed subject matter, that he is not an inventor of the claimed subject matter. The undersigned attorney discussed Mr. Singleton's tasks and responsibilities in connection with the claimed subject matter with Mr. Singleton and has determined that Mr. Singleton did not conceive or contribute to the conception of the claimed subject matter. Applicants respectfully submit that Willinm Singleton Was listed on the Joint Declaration without deceptive intent."

Applicant may wish to file a petition under 37 CFR 1.48, Correction of Inventorship in a Patent Application, in order to remove William Singleton as an inventor in the above-identified application. Petitions under 37 CFR 1.48 should be filed in the Technology Center and not the Office of Petitions.

The file is being forwarded to Technology Center 3700 for further examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

JOSEPH CAPORALETTI
10142 SPRING HOUSE CT.
MANASSAS, VA 20110

In re Application of
Evan McConnell, Joseph Caporaletti, Robert Vanderlip, William Singleton, Anthony Tomarchio, Tex Rubinowitz, Bryan Smith and Mark Sebastian
Application No. 09/917,776
Filed: July 31, 2001
Title: MOBILE TEACHING SYSTEM

Dear JOSEPH CAPORALETTI:

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 undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

MS. PEGGI MCCONNELL
EARTHWALK COMMUNICATIONS, INC.
10262 BATTLEVIEW PARKWAY
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TEX RUBINOWITZ
6115 CLEARBROOK DR.
SPRINGFIELD, VA 22150

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OFFICE OF PETITIONS

In re Application of
Evan McConnell, Joseph Caporaletti, Robert Vanderlip, William Singleton, Anthony Tomarchio, Tex Rubinowitz, Bryan Smith and Mark Sebastian
Application No. 09/917,776
Filed: July 31, 2001
Title: MOBILE TEACHING SYSTEM

Dear TEX RUBINOWITZ:

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 undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

MS. PEGGI MCCONNELL
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of
Donna L. Mendrick et al.
Application No. 09/917,800
Filed: July 31, 2001
Attorney Docket No. 044921-5038

ON PETITION

This is a decision on the "Petition For According The Filing Date Of A Timely Filed Response", filed January 5, 2006. The petition is treated under 37 CFR 1.182.

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

In response to a non-Final Office Action mailed June 6, 2005, petitioners argue that they filed a response and a three month extension of time request on December 6, 2005. They further argue that due to typographical errors in the application serial number placed on the response and the extension of time request, the USPTO was unable to match the papers with the file. In support of the argument and the request to have the response filed December 6, 2005 considered timely, petitioners have submitted a complete copy of the response as well as a copy of the postcard receipt date stamped by the USPTO on December 6, 2005.

A review of the office records reveals that both the amendment and the extension of time request filed December 6, 2005 were incorrectly identified. The postcard receipt submitted as evidence of the timely filing of the response also bears an incorrect application serial number.

Minor errors in the identification of the application are usually corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. While petitioner argues that the error in citing the correct application serial number on the response and extension of time was a typographical error, in this instance it wasn't easily able to make the connection between the application number cited and the intended application since the other identifying information (title of invention and name of the first named inventor) was identical in both the incorrect and the correct application.

However, although not a requirement, in view of the fact that the proper docket number and filing date were used on the response, extension of time request and the postcard receipt, submitted as proof of a timely response to the non-Final Office Action, petitioner has substantially complied with the requirements set forth in MPEP 503.

Each piece of evidence submitted by the petitioner, standing alone would not be sufficient for a conclusion that a response was timely filed. However, when viewed together, the totality of the evidence presented could point to a conclusion that an amendment was mailed and that the delay in having the amendment matched to the application file, was due to a typographical error.

To avoid abandonment of the instant application for failure to file a timely response to the non-Final Office Action mailed June 6, 2006, this decision will grant petitioner's request to have the time for reply extended to December 6, 2005 and the amendment filed on December 6, 2005 entered therefore as timely.

The papers incorrectly entered in the file of application no. 10/152,319 on December 6, 2005 will be properly moved to application no. 09/917,800.

It should be noted though that since this error was not one caused by the USPTO, a fee for treatment of the petition under 37 CFR 1.182 in the amount of $400.00 will be charged to deposit account no. 50-1283, in accordance with the authorization contained therein.

Finally, since the address on the petition differs from the address of record, if it is petitioner's desire, petitioner should file a change of address in accordance with MPEP 601.03. A change of address can't be assumed by the noting of a different address found in a petition. 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.

This matter will be referred to Technology Center 1631 for appropriate treatment of the amendment filed December 6, 2005.

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:

COOLEY GODWARD LLP
THE BROWN BUILDING - 875 15TH STREET, NW
SUITE 800
WASHINGTON, DC 20005-2221

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Office of the Director
Group 3600

Gowling Lafleur Henderson LLP
Suite 4900
Commerce Court West
Toronto ON M5L 1J3 CANADA

In re Application of
Frank Crupi
Application No.09/917,824
Filed: July 31, 2001
For: METHOD OF IN-SITU REJUVENATION OF ASPHALT PAVEMENT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on June 4, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that an Office action was mailed on September 18, 2002 wherein a three-month shortened statutory period for response was set. Since no response to the September 18, 2002 Office action was received the application was abandoned.

Petitioner requests withdrawal of the holding of abandonment on the basis that a response was allegedly timely filed. Petitioner alleges that a response was timely submitted via facsimile transmission on February 18, 2002 and submits a copy of an Auto-Reply Facsimile Transmission as provide proof of the timely submission.

The evidence submitted as proof of filing the response is flawed. Specifically, the Auto-Reply Facsimile Transmission illustrates the cover page but the cover page does not properly indicate what was being transmitted. There is nothing on the Auto-Reply Facsimile Transmission that indicates an amendment to application to the present application was sent.

The application is being forwarded to Files Repository.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petition desire reconsideration, he should submit a renewed petition which addresses the deficiencies noted above.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Kenneth Dorner at (703) 308-0866.

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

KJD/ekn 10/24/03

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#11

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MAR 2 2004

Office of the Director
Group 3600

Gowling Lafleur Henderson LLP
Suite 4900
Commerce Court West
Toronto ON M5L 1J3 CANADA

In re Application of
Frank Crupi
Application No.09/917,824
Filed: July 31, 2001
For: METHOD OF IN-SITU REJUVENATION OF ASPHALT PAVEMENT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on December 30, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that an Office action was mailed on September 18, 2002 setting a three month shortened statutory period for response. Since no response to the September 18, 2002 Office action was received the application was held as abandoned.

Petitioner alleges that a response was timely filed on February 18, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a facsimile cover page with a Certificate of Transmission dated February 18, 2003 and a USPTO return facsimile receipt showing the above-noted facsimile cover page dated the same. The remaining papers submitted with the petition do not include a Certificate of Transmission.

However, neither the USPTO return facsimile receipt nor the facsimile cover page bearing the Certificate of Transmission specifically identify what documents were submitted by the applicant. Applicant's file reference number on the pages above does not provide evidence that an amendment to the present application was sent.

While the copy of the cover letter submitted with the petition includes a Certificate of Transmission dated February 18, 2003;

MPEP 512 states:

> "(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc...

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed."

The Certificate of Transmission is contained on a separate sheet and fails to fully identify the paper to which it accompanied. Therefore, the certification is not acceptable since there is no connection between the certification and the paper filed.

The USPTO return facsimile receipt is analogous to a self addressed return post card. MPEP section 503 requires "The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested.. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment..." See MPEP p. 500-14.

The application therefore has been properly held as abandoned is being forwarded to Files Repository.

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/cps: 2/22/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

GOWLING LAFLEUR HENDERSON LLP
COMMERCE COURT WEST, SUITE 4900
TORONTO, ONTARIO
M5L 1J3
CANADA

COPY MAILED
JUN 1 6 2004
OFFICE OF PETITIONS

In re Application of	:	
Crupi	:	
Application No. 09/917,824	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. T8466250US	:	

This decision concerns the April 13, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on December 19, 2002 for failure to timely respond to the September 18, 2002 non-final Office Action.

The instant petition encloses an amendment and the $665 petition fee (small entity), and states in essence that the entire delay in responding to the September 18, 2002 non-final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application file is being returned to Technology Center 3600 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 25 2005

MAILED

MAR 25 2005

OFFICE OF THE DIRECTOR
TC 3600

FRANK CRUPT
1602 10TH STREET SOUTH
SAFETY HARBOR, FL 34693

In re application of
Frank Crupi
Application No. 09/917,824
Filed: July 31, 2001
For: METHOD OF IN-SITU REJUVENATION OF ASPHALT PAVEMENT

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on October 28, 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 attorney signing the request does not now have power of attorney in this application.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 02/08/05

AF/ IFW

OIPE JC103
MAY 2 5 2005
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CENTRAL FAX CENTER
MAR 1 5 2005

APPROVED 3671

PTO/SB/83 (08-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	09/917,824
Filing Date	07/31/2001
First Named Inventor	CRUPI, Frank
Art Unit	3671
Examiner Name	Addie, Raymond W.
Attorney Docket Number	T8466250US

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:

The Applicant/Inventor has an outstanding account receivable balance with our firm (ie. the firm where the agents of record practice) and such outstanding account has remained unpaid despite requests for payment.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ Customer Number

OR

☒ Firm or Individual Name	Frank Crupi c/o H.I.P. (Hot In Place) Recycling Equipment Inc.				
Address	1602 10th Street South				
Address					
City	Safety Harbor	State	FL	ZIP	34695
Country	United States of America				
Telephone	(727)791-7699	Fax	(727)791-7285		

☒ This request is made on behalf of myself and
- ☒ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number

This request is enclosed in triplicate (including any attachments).

Name	Arne L. Fors		
Signature		Registration No.	20,775
Date	February 25, 2005		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

APPROVED 9/22/05 AF/ TN

3671

RECEIVED
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MAR 15 2005

OIPE JC103
MAY 25 2005
PATENT & TRADEMARK OFFICE

PTO/SB/83 (08-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	09/917,824
Filing Date	07/31/2001
First Named Inventor	CRUPI, Frank
Art Unit	3671
Examiner Name	Addie, Raymond W.
Attorney Docket Number	T8466250US

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:

The Applicant/Inventor has an outstanding account receivable balance with our firm (ie. the firm where the agents of record practice) and such outstanding account has remained unpaid despite requests for payment.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ Customer Number

OR

☒ Firm or Individual Name	Frank Crupi c/o H.I.P. (Hot In Place) Recycling Equipment Inc.				
Address	1602 10th Street South				
Address					
City	Safety Harbor	State	FL	ZIP	34695
Country	United States of America				
Telephone	(727)791-7699	Fax	(727)791-7285		

☒ This request is made on behalf of myself and
- ☒ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number

This request is enclosed in triplicate (including any attachments).

Name	Arne I. Fors		
Signature	Arne I. Fors	Registration No.	20,775
Date	February 25, 2005		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. ____

KEVIN K. JOHANSON
TRASKBRITT, PC
P.O. BOX 2550
SALT LAKE CITY, UTAH 84110

COPY MAILED

AUG 05 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Brent Keeth et al
Application No. 09/917,844
Filed: July 26, 2001
Attorney Docket No. 5990.3US
(95-0424.03/US)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 31, 2003 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 May 2, 2003; with the issue fee being due on or before August 4, 2003. The petition states that 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 May 2, 2003 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.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-8859.

Upon receipt of the file in the Office of Petitions and entry of the instant petition and decision, the file will be returned to Technology Center AU 2814 for appropriate processing of the RCE filed July 31, 2003 and consideration of the IDS submitted concurrently therewith.

Karen Creasy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-23-07

Paper No.: _____

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 09917844 Patent No.: 6703656

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**.

Valerie Sacks
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE 2814

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MAY 21 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John W. Ryan
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037

In re Application of: Javier ROSES)
Application No. 09/917,890)
Filed: July 31, 2001) **DECISION ON REQUEST FOR**
For: DOCUMENT/POSTER) **WITHDRAWAL AS ATTORNEY**
COMPOSITION AND PRINTING)

This is a decision on the Request To Withdraw from Representation filed March 26, 2003.

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

The request is **GRANTED.**

No further communication to you regarding this application will be made. All future communications from the United States Patent and Trademark Office will continue to be directed to the below-listed address.

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

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
17,950	07/31/2001	Kenneth Charles Symes	Q60767	3201

7590 07/31/2002

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

EXAMINER
YOON, TAE H

ART UNIT	PAPER NUMBER
1714	7

DATE MAILED: 07/31/2002

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Paper No. 7

Mailed:

In re Application of SYMES et al. Serial No. 09/917,950 Filed : July 31, 2001 For: POLYMERIC MATERIALS AND THEIR USE	: : : : :	DECISION ON PETITION

This is a decision on the petition filed July 31, 2001 to correct inventorship under 37 CFR 1.48(c). It is noted that the applicants have met the requirements of (1) a request to correct inventorship that sets forth the desired inventorship change, (2) a statement from each person being added as inventor that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deception intention, (3) an oath or declaration by the actual inventors as required by 37 CFR 1.63, (4) the processing fee set forth in 37 CFR 1.17(i) and (5) written consent of the assignee in compliance with 37 CFR 3.73(b). See Paper No. 6.

Accordingly, the petition is GRANTED.

Vasu Jagannathan

Vasu Jagannathan, SPE
Technology Center 1700
Chemical Materials and Engineering

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

UNITED STATES 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.

MARY E. BAK
HOWSON AND HOWSON, SPRING HOUSE CORPORATE CENTER
BOX 457
SPRING HOUSE, PA 19477

COPY MAILED

JAN 1 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,767,739	: DECISION ON REQUEST FOR
Crooke et al.	: RECONSIDERATION OF
Issue Date: July 27, 2004	: PATENT TERM ADJUSTMENT
Application No. 09/917,963	: and
Filed: July 30, 2001	: NOTICE OF INTENT TO ISSUE
Atty Docket No. ISPH-0591	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 22, 2004.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of eighty-one **(81)** days.

On July 27, 2004, the above-identified application matured into U.S. Patent No. 6,767,739, with a patent term adjustment of 46 days printed on the front page. In response, patentees filed the instant request for reconsideration. Patentees do not dispute that the initial determination of patent term adjustment at the time of the mailing of the notice of allowance was zero (0) days. However, after the mailing of the notice of allowance, a period of adjustment of 110 days was entered in the application. Patentees dispute the Office reduction of the 110 days by 35 days for applicant delay in filing a response to the Notice to File Missing Parts of Application mailed October 31, 2001.

A review of the application file reveals that the applicants' response to the Notice to File Missing Parts of Application mailed October 31, 2001, is of record in the application with a date of receipt by the Office of January 24, 2002, reflecting timely filing[1] for purposes of compliance with 37 CFR 1.704(b). Furthermore, the response was complete and proper. Thus, the Office should not have entered the date that the instant application was complete as March 7, 2002 or assessed patentees a

---

[1] Patentees' postcard receipt further provides *prima facie* evidence that the response was timely filed within the meaning of § 1.704(b). See MPEP 503. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in § 1.704(b). See 37 CFR 1.704(b).

delay of thirty-five (35) days. The response was timely filed within the three-month period under 37 CFR 1.704(b) and accordingly, patentees' delay should have been assessed as zero "0" days. Patentees did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, it is concluded that the patent should have issued with a revised Patent Term Adjustment of eighty-one (81) days.

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 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 EIGHTY-ONE (81) days.

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

Karin A. Ferriter
for

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

UNITED STATES 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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AUG 22 2007

OFFICE OF PETITIONS

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

In re Application of	:	
Marco Steiger, et. al.	:	
Application No. 09/917,998	:	DECISION ON PETITION
Filed: July 30, 2001	:	
Attorney Docket No. G 3752	:	

This is a decision on the petition under 37 CFR 1.181 (no fee) filed on October 17, 2006, requesting withdrawal of the holding of abandonment in the above-identified application.

This application was held abandoned for failure to timely respond to the non-final Office action mailed July 1, 2005. A Notice of Abandonment was mailed on August 28, 2006.

Petitioner states that a reply was timely sent to the Office on December 30, 2005, but was directed to the wrong application number.

The Office concurs with petitioner, in that, a response was timely submitted to the Office on January 3, 2006[1], but the documents contained the wrong application number; and as a result, the response was incorrectly matched to continuing application No. 09/123,759.

Further, continuing application No. 09/123,759 was expressly abandoned on November 29, 2001. Therefore, it is clear that the amendment and $1,020 for a three (3) month extension of time filed on January 3, 2006 was not intended for the continuing application.

Under current Office procedure, if a paper contains the incorrect application number, but contains sufficient information to identify the correct

[1] The amendment and three (3) month extension of time filed on January 3, 2006, contained a Certificate of Mailing under 37 CFR 1.10 dated December 30, 2005.

application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon (i.e., inventor's name and title of invention) was sufficient to associate the papers with the above-identified application.

In view of the above, the petition is **GRANTED**. Accordingly, the holding of abandonment for failure to timely file a reply to the non-final Office action mailed July 1, 2005, is hereby withdrawn and the application is restored to pending status.

Petitioner is cautioned to ensure that the correct identifying data appears on all correspondence submitted to the USPTO to avoid situations of the nature which occurred in the present application.

Finance records show that petitioner submitted a credit card authorization in the amount of $1,020 for a three (3) month extension of time on September 25, 2006, for application No. 09/123,759. Since this application was expressly abandoned, the $1,020 extension of time fee is unnecessary and will be credited back to petitioner's credit card, in due course.

This application file is being referred to Technology Center Art Unit 3723, for consideration of the response filed on January 3, 2006.

Telephone inquiries regarding this decision should be directed to Andrea Smith at (571) 272-3226. Questions concerning the processing of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

AUG 0 4 2008

OFFICE OF PETITIONS

In re Application of
Kubota
Application No. 09/918,007
Filed: July 30, 2001
Attorney Docket No. 7217/65184

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 11, 2008 for failure to timely pay the issue and publication fees on, as required by the Notice of Allowance and Fee(s) Due. Notice of Abandonment was mailed June 24, 2008.

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

MAIL

AUG 1 2 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

IP Department
Schnader Harrison Segal & Lewis LLP
Suite 3600
1600 Market Street
Philadelphia PA 19103

In re Application of:
John A. Bell
Application No.: 09/918,037
Filed: July 30, 2001
For: REMOTE OPTICAL TRANSMITTER OUTPUT POWER CONTROL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 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 meets all the above-listed requirements. 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 attorneys. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Ms. Kyshon Rivers
Outside Counsel Coordinator
Agere Systems, Inc.
600 Mountain Avenue, Room 3A 506
Murray Hill, NJ 07974-0636

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 16 2006

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

SYNNESTVEDT & LECHNER LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

In re Application of	:
Young Mi Choi-ledeski et al	:
Serial No.: 09/918,039	: SUSPENSION OF ACTION
Filed: July 30, 2001	:
Attorney Docket No.: P24,450-E	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed July 5, 2005.

The petition fee paid for this petition of $130.00 is an incorrect fee. The petition fee for a Petition to Suspend Prosecution is $200.00. The fee deficiency will be charged to applicants' Deposit Account No. 19-5425, as directed.

§ 1.103 Suspension of action by the Office.

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

Applicants' petition states that they are concerned that this application will proceed to issue prior to decision on a concurrently filed petition to withdraw a restriction requirement. In view of the fact that the filing of a petition and entry into the Office PALM system normally prevents the mailing of any other Office action until the petition is decided, applicants' reason for requesting a suspension of prosecution is not considered good and sufficient. Note also that a decision on the petition to withdraw the restriction requirement is being mailed concurrently with this decision.

In view of the above reason the petition is **DENIED**.

Should there be any questions with respect to this action, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 16 2006

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SYNNESTVEDT & LECHNER LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

In re Application of	:
Young Mi Choi-ledeski et al	:
Serial No.: 09/918,039	: PETITION DECISION
Filed: July 30, 2001	:
Attorney Docket No.: P24,450-E	:

This is in response to the petition under 37 CFR 1.144, filed July 5, 2006, requesting withdrawal of an improper restriction requirement. The delay in acting on this petition is regretted, but it was only recently forwarded for decision.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained 42 claims, as filed. Claims 3-5, 7, 13, 15-21 and 42 were canceled and most other claims amended prior to action by the examiner. The examiner mailed a restriction requirement to applicants on September 24, 2002, requiring only an election of species. Applicants replied on November 13, 2002, identifying a species for examination purposes.

The examiner mailed an Office action to applicants on January 24, 2003, acknowledging the elected species, and rejecting claims 1-2, 6, 8-12, 21-25 and 28-41 under 35 U.S.C. 112, second paragraph, as indefinite. Applicants replied on May 23, 2003, amending claims 1, 22, 24-25 and 29 and canceling claim 23, and responding to the examiner's rejection.

The examiner then suspended prosecution on the application for a period of six months on August 11, 2003.

The examiner resumed prosecution on May 18, 2004, by mailing a new Office action rejecting the same claims under 35 U.S.C. 112, second paragraph, and rejecting claims 1, 6, 8-12, 14, 25 and 28-30 under 35 U.S.C. 102(e) as anticipated by Salvino et al. Applicants replied on August 20, 2004, by amending claims 1-2, 8, 11, 25 and 29. Applicants also replied to each of the rejections of record.

On December 2, 2004, the examiner mailed a restriction requirement to applicants setting forth a 17 way restriction, as follows:

Groups I-V – claims 1-2, 6, 8-12, 14, 22 and 24-34, drawn to compounds where Ar^1 is pyrrolo[2,3-c]pryridine and where R^2 is: (I) SO_2-phenyl or –naphthyl; (II) SO_2-(5-member heteroaryl or heterocycle); (III) SO_2-(6-member heteroaryl); (IV) SO_2-quinolyl; or (V) SO_2-benzopyranyl;

Groups VI-X – claims 1-2, 6, 8-12, 14, 22 and 24-34, drawn to compounds where Ar^1 is pyrrolo[2,3-b]pryridine and where R^2 is: (VI) SO_2-phenyl or –naphthyl; (VII) SO_2-(5-member heteroaryl or heterocycle); (VIII) SO_2-(6-member heteroaryl); (IX) SO_2-quinolyl; or (X) SO_2-benzopyranyl;

Groups XI-XV – claims 1-2, 6, 8-12, 14, 22 and 24-34, drawn to compounds where Ar^1 is pyrrolo[3,2-c]pryridine and where R^2 is: (XI) SO_2-phenyl or –naphthyl; (XII) SO_2-(5-member heteroaryl or heterocycle); (XIII) SO_2-(6-member heteroaryl); (XIV) SO_2-quinolyl; or (XV) SO_2-benzopyranyl;

Group XVI – claims 1-2, 6, 8-12, 14, 22 and 24-34, drawn to compounds where Ar^1 and R^2 are not as defined above.

Group XVII – claims 35-41, drawn to the combination therapy and/or composition comprising additional agents.

The examiner set forth reasons for restriction and held specifically that Groups I-XVI were unrelated because they do not have the same core or R^2. Possible further restriction was indicated for the last two groups, if elected.

Applicants replied on April 7, 2005, canceling claims 1-34 and 42 and amending claims 35-41, and traversing the restriction requirement as improper as all compounds have a common core and have a common property or activity. By cancellation of all other claims, Group XVII was elected.

The examiner mailed a non-Final Office action to applicants on June 27, 2005, acknowledging applicants' election and making a further 16 way restriction requirement of claims 35-41 based on the R^2 group and the orientation of the pyrrolopyridine fused ring structure similar to that set forth above for Groups I-XV and identifying Group XVI as directed to any other compounds not encompassed by Groups I-XV and subject to further restriction. The examiner used the same reasoning as before for justifying the restriction requirement.

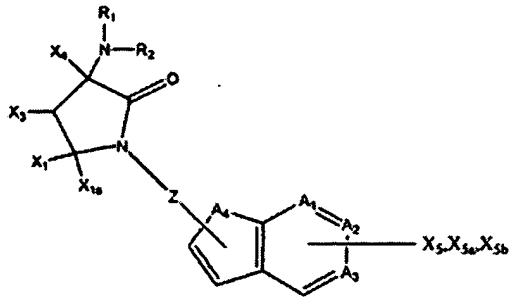
Applicants replied on September 22, 2005, arguing that the restriction requirement is improper for the same reasons as before and electing Group XVI and a specific compound as before.

The examiner mailed a non-Final Office action to applicants on December 30, 2005, responding to applicants' traversal and maintaining the requirement. The examiner then further restricted the elected Group into two additional groups based on the specific pyrrolopyridine system and the value of R^3 in the R^2 variable and held the former constructively elected. Claims 35-41 were then rejected under 35 U.S.C. 112, second paragraph, as indefinite and under first paragraph, as lacking enablement.

Applicants replied on June 30, 2006, amending claims 35, 37-39 and 41 and responding to the rejections and filing this petition.

DISCUSSION

Applicants' claims are directed to compounds having the following structure:



The compounds are identified as aminopyrrolidinone-pyrrolopyridine compounds. As defined in the claims, the fused pyrrolopyridine structure contains four variables, A_1-A_4 with A_4 always being a nitrogen (i.e. an N-R) group and only one of A_1-A_3 being a nitrogen. The Z-aminopyrrolidinone structure may be attached to the fused ring at any available carbon and X_5, X_{5a} and X_{5b} are defined as one being proximal (i.e. – adjacent) to and one being distal (remote) from the ring the Z moiety is attached to and alpha to the nitrogen of that ring with the last occupying any other position available. Each represents a different set of values with some overlap. Z is an alkenyl group, C_r-C(O)-N(R)-C_s, C_r-N(R)-C(O)-C_s, or C_r-N(R)-C_s where r is 1 or 2 and s is 0, 1 or 2. X_1, X_{1a}, X_3 and X_4 are generally defined as alkyls, aryls, heteroaryls or combinations thereof with additional substitution or as combining to form an additional ring. R_1 and R_2 are similarly defined and may contain further variables R_3-R_7 and may combine to form a ring also.

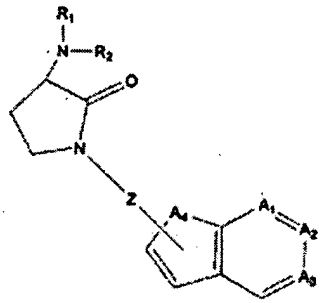
It is noted that the title of the application does not appear to reflect the compounds currently being claimed as sulfur appears only in a few radicals and is not required to be present in any radical. Correction should be made.

Claims 35-38 are directed to a method of treatment using the pharmaceutical compounds based on the above structure in combination with another specific type of drug and claims 39-42 are directed to the pharmaceutical compounds, *per se*, in combination with another specific drug. As can be seen there are three distinct pyrrolo-pyridine structures depending on the location of the nitrogen in the pyridine ring (as defined by the examiner). There are also six possible points of attachment of the Z structure and this dictates the location of two other radicals.

The prosecution history shows that at least three formal restriction requirements have been made during the prosecution of this application (September 24, 2002 – election of species only; December 2, 2004 – 17-way restriction; June 27, 2005 – 16-way restriction; December 30, 2005 – 2-way restriction). Except for the first election of species requirement each restriction requirement has further narrowed the examined subject matter. It is not the general policy of the Office to make multiple restriction requirements. Here for purposes of restriction the examiner has focused on the fused pyrrolo-pyridine ring and the R^2 moiety which is as remote from the pyrrolo-pyridine ring as possible as providing the basis for restriction.

Applicants' petition only addresses the most recent restriction requirements holding that they are improper and referring to M.P.E.P. 803.02. Applicants argue that the restriction requirements between Groups I-V, VI-X and XI-XV should be withdrawn. Each of these groups is directed to a specific pyrrolo-pyridine structure and further restriction is based on the value of R^2. Applicants point to the fact that the examiner has indicated that classification of all of the groups of compounds falls in Classes 514 and 546, thus indicating no burden is presented in searching all of the compounds. Further, the examiner has not pointed to any difference in activity of the compounds pertaining to the different values of R^2. However, the examiner has limited the value of R^2 to an $S(O)_{1 \text{ or } 2}R^3$ moiety in the restriction requirement whereas R^2 can have many other different values not involving $S(O)_x$ substituents. Thus the restriction requirement is flawed on its face by not including all possible compounds within the Groups set forth.

Applicants suggest that the following should be considered the substantial structural feature which provides unity of invention within the claims:



Applicants' suggestion is appropriate except that R_1 and R_2 should not have been included. What then is considered the core structure has only variables A_1-A_3, only one of which can be nitrogen and the exact point of attachment of the Z moiety. This then provides three different pyrrolo-pyridine structures between which restriction may be required as has essentially been done by the examiner. While classification of the three structures may be similar or the same search of each of the structures would be different, especially when searching various data bases. (It may not, however, be unexpected to find all three pyrrolo-pyridine structures in a single reference.)

Based on the above, the restriction requirement is restructured as three groups, Group I, where A_1 is N; Group II, where A_2 is N; and Group III, where A_3 is N. Applicants' election of a single disclosed species is also confirmed and examination will continue based on that election. No further restriction can or will be made based on the election of species made. Examination will proceed on the elected species to determine its patentability, and if patentable the examination will be expanded to consider other related species in order to determine the patentability of the particular pyrrolo-pyridine compounds encompassed by the election of species.

Although applicants argue that all three pyrrolo-pyridine ring structures should be examined together, as explained above the differences between the different structures is sufficient to establish a search burden on the Office based on the need to search commercial databases and other sources to determine patentability.

DECISION

The petition is **GRANTED-IN-PART**. The restriction requirement is redrafted as above with three groups based on the different pyrrolo-pyridine ring structures. No other variables are considered in making this requirement.

The application will be forwarded to the examiner for consideration of applicants' reply filed June 30, 2006, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

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DAVID J. BOLDUC
3841 SURRY RD
VIRGINIA BEACH, VA 23455-1686

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
Jessie B. Linyear et al :
Application No. 09/918,071 : ON PETITION
Filed: July 30, 2001 :
Attorney Docket No. LIN-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 25, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on July 1, 2003, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed July 29, 2003 and remailed on December 2, 2003. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application 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 August 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)). This petition lacks item (1) above.

As to item (1), petitioner has not submitted an amendment that *prima facie* places the application in condition for allowance. The required reply to the final Office action must be an amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal and the requisite fee, or a request for continued examination (RCE). A courtesy copy of the Advisory Action is enclosed.

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

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 Wan Laymon at (571) 272-3220.

Wan Laymon

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

Attachment: Courtesy copy of the Advisory Action

cc: DAVID J. BOLDUC
4805 PLEASURE HOUSE CT #102
VIRGINIA BEACH, VA 23455

2853
IFW

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of
Jessie B. Linyear et al
Application No. 09/918,071
Filed: July 30, 2001
Attorney Docket No. LIN-001

ON PETITION

RECEIVED
MAY 26 2005
OIPE/JCWS

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 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.

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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.

As to item (1), petitioner has not submitted an amendment that *prima facie* places the application in condition for allowance. The required reply to the final Office action must be an amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal and the requisite fee, or a request for continued examination (RCE). A courtesy copy of the Advisory Action is enclosed.

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

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

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 Wan Laymon at (571) 272-3220.

Wan Laymon

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

Attachment: Courtesy copy of the Advisory Action

cc: DAVID J. BOLDUC
4805 PLEASURE HOUSE CT #102
VIRGINIA BEACH, VA 23455

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/918,071	Applicant(s) LINYEAR ET AL.	
	Examiner Manish S. Shah	Art Unit 2853	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 June 2004 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: *Addition of new claims 11-16 required further consideration and search*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

MSS 5/10/05

Manish S. Shah
Primary Examiner
Art Unit: 2853

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DAVID J. BOLDUC
4805 PLEASURE HOUSE CT #102
VIRGINIA BEACH, VA 23455

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Jessie B. Linyear et al	:	
Application No. 09/918,071	:	ON PETITION
Filed: July 30, 2001	:	
Attorney Docket No. LIN-001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 21, 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 Request for Continued Examination (RCE); (2) the petition fee has been previously submitted, (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 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 matter is being referred to Technology Center AU 2853.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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Nields & Lemack
176 E. Main Street
Suite #5
Westboro MA 01581

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OFFICE OF PETITIONS

In re Application of	:	
Jurgen Beil	:	
Application No. 09/918,074	:	DECISION ON PETITION
Filed: July 20, 2001	:	
Attorney Docket No. 534P008	:	

This is a decision on the petition, filed August 11, 2006, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice under 37 CFR 1.251 mailed January 5, 2006 regarding the reconstruction of a lost file, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 14, 2006.

The file was originally indicated as lost September 2, 2005 and reconstruction procedures were initiated, which included the mailing of the Notice on January 5, 2006. A reply was received April 5, 2006, as indicated by the post card receipt accompanying the additional petition under 37 CFR 1.181 that was filed June 3, 2008. However, the papers for reconstruction of the file identified on the post card receipt are not in the possession of the USPTO. Nonetheless, the file was found by the USPTO on March 12, 2008. Accordingly, the holding of abandonment is withdrawn.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

This application is being referred to Art Unit 3641 for consideration of the decision of the Board of Patent Appeals and Interferences mailed March 24, 2005.

David Bucci
Petitions Examiner
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6659019	2003-12-09	09918079	2001-07-30	RPC 574 PUS

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John E. Carlson/	Date (YYYY-MM-DD)	2008-01-29
Name	John Carlson	Registration Number	37794

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6659019
Issue Date: December 9,2003
Application No. 09918079
Filed: July 30,2001
Attorney Docket No. RPC 0574 PUS

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

This is a decision on the electronic petition, filed January 29,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

MCKEE VOORHEES & SEASE PLC
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

COPY MAILED

JUN 12 2002

OFFICE OF PETITIONS

In re Application of	
Kimberly Ann Pfiffner et al	
Application No. 09/918,091	DECISION GRANTING STATUS
Filed: July 30, 2001	UNDER 37 CFR 1.47(A)
For: METHOD, SYSTEM AND APPARATUS	
FOR ENTERPRISE CUSTOMER CONTACT	
MANAGEMENT	

This is a decision on the petition filed June 7, 2002 and supplemented on June 10, 2002, requesting reconsideration of a decision mailed April 19, 2002, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

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

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

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

This application is being forwarded to Initial Patent Examination Division for further preexamination processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KELM BRUESCHKE
1692 N.W. 86TH STREET
APARTMENT 4
CLIVE, IA 50325

COPY MAILED

JUN 12 2002

OFFICE OF PETITIONS

In re Application of
Pfiffner; Brueschke; Frett; Hamer; Kreider; Rants; Weinecke; Winchel; and Zimmermann
Application No. 09/918,091
Filed: July 30, 2001
For: METHOD, SYSTEM AND APPARATUS FOR ENTERPRISE CUSTOMER CONTACT MANAGEMENT

Dear Mr. Brueschke:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

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

cc:
MCKEE VOORHEES & SEASE PLC
801 GRAND AVENUE, SUITE 3200
DES MOINES, IA 50309-2721

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

MCKEE VOORHEES & SEASE PLC
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

COPY MAILED

APR 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Kimberly Ann Pfiffner et al :
Application No. 09/918,091 : ON PETITION
Filed: July 30, 2001 :
Attorney Docket No. P04763US0 :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed January 17, 2002.

The petition is dismissed.

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

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2),the declaration fails to set forth the citizenship for inventors Kelm Brueschke, Andrew Thomas Kreider and Shelley Lynne Winchel. The statute at 35 USC 115 requires that the declaration shall state the country of citizenship of each inventor. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 and signed by all the other joint inventors on behalf of themselves and on behalf of nonsigning joint inventor Brueschke and leaving the signature block for inventor Brueschke blank is REQUIRED. See MPEP 409.03(a), 602, and 605.01. See also 37 CFR 1.63(a)(3).

Pursuant to petitioner's authorization, Deposit Account No. 26-0084 was charged $130.00 for the late surcharge.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Wan Laymon.

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

By mail: U.S. Patent and Trademark Office
Mail Stop DAC
P.O. Box 2327
Arlington, VA 22202

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

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAM A. WEBB
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of	:	
James Stuart Wight	:	
Application No. 09/918,106	:	DECISION ON PETITION
Filed: July 30, 2001	:	TO WITHDRAW
Attorney Docket No. 11178/3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 29, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Thomas Turano does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is not applicable.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Kirkpatrick & Lockhart Nicholson Graham LLP
(Formerly Kirkpatrick & Lockhart LLP)
75 State Street
Boston, MA 02109-1808

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 21

MICHAEL L. GOLDMAN
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER NY 14603

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AUG 1 1 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Francis Barany et al
Application No. 09/918,156
Filed: July 30, 2001
Attorney Docket No. 19603/448 (CRFD-1593C)

This is a decision on the petition, filed August 8, 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, 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 1637 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).

#11
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 29 2004

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

MAILED

JAN 29 2004

OFFICE OF THE DIRECTOR
TC 3600

APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA, CA 95050

In re Application of :
Ilya Perlov, et al. :
Application No. 09/918,198 :
Filed: July 30, 2001 :
For: APPARATUS FOR STORING AND MOVING A CASSETTE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on October 6, 2003.

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 December 5, 2002 and a Notice to that effect was mailed on July 30, 2003.

Applicant has submitted as evidence of a timely response by facsimile transmission a copy of a Request for Continued Examination (RCE), a request for a three month extension of time, and an amendment to the claims with a certificate of transmission dated June 5, 2003. Also submitted is a facsimile transmission report.

The facsimile transmission report included with the petition cannot serve as proof of timely filing.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

The petition fails, under requirement (2), to include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, *by the person who signed the certificate*.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps: 1/5/03

UNITED STATES PATENT AND TRADEMARK OFFICE

#13 DW

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL - 2 2004

MAILED

JUL - 2 2004

OFFICE OF THE DIRECTOR
TC 3600

Applied Materials, Inc.
2881 Scott Blvd. M/S 2061
Santa Clara, CA 95050

In re Application of
Llya Perlov et al.
Application No. 09/918,198
Filed: July 30, 2001
For: APPARATUS FOR STORING AND MOVING A CASSETTE

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 March 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 Mailing/Transmission signed on June 5, 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.

KJD/vdb: 7/1/04

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

Paper No. ____

HEWLEETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 272400
FORT COLLINS CO 80527-2400

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SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of	:
Tim Goldstein	:
Application No. 09/918,211	: DECISION GRANTING PETITION
Filed: July 30, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10007825	:

This is a decision on the petition, filed September 2, 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 19, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-21-09

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/918211 Patent No.: 6885818

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

A Green

Angela Green
Certificates of Correction Branch
703-756-1541

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: _____

Victor E. Galle — SPE

2862 — Art Unit

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)
6,601,256	2003-08-05	09/918,217	2001-07-30	2128-01

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James E. Bame/	Date (YYYY-MM-DD)	2008-07-18
Name	James E. Bame	Registration Number	44521

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6601256
Issue Date: August 5,2003
Application No. 09918217
Filed: July 30,2001
Attorney Docket No. 814.0027

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

This is a decision on the electronic petition, filed July 18,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 18,2008 . 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 : April 12, 2007

TO SPE OF : ART UNIT 2111

SUBJECT : Request for Certificate of Correction for Appl. No. 09/ 918258 patent no.6959356

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: _____

MAY 22 2007

MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2111

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Stephen Michael Randall :
Application No. 09/918,262 :
Filed: July 30, 2001 :
Attorney Docket No. 1004-022US01

ON PETITION

This is a decision on the petition, filed May 27, 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 May 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2875 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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Darby & Darby, P.C.
805 Third Avenue
New York, NY 10022

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Evan John Kaye	:	
Application No. 09/918,279	:	ON PETITION
Filed: July 30, 2001	:	
Attorney Docket No. 3092/1G780-US1	:	

This is a decision on the petition under 37 CFR 1.182, filed February 10, 2005, to change the name of one of the inventors.

The petition is **GRANTED**.

The name of the sole inventor has been changed from "Evan Kaimowitz" to **Evan John Kaye**.

A Corrected Filing Receipt reflecting the requested change is attached herewith.

The application file is being referred to Technology Center 2100 to await reply to the non-final Office action mailed December 21, 2004.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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

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OFFICE OF PETITIONS

In re Application of :
Mansour, et al. : DECISION ON PETITION
Application No. 09/918,347 :
Filed: July 30, 2001 :
Docket No.: 03022/37258 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed March 22, 2006. The Notice set a three month statutory period for reply. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Publications Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

#9
2/21/03

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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FEB 21 2003

Technology Center 2100

Paper No. 9

Shailesh Mehra
Suite 200
4695 Chabot Drive
Pleasanton, CA 94588

In re Application of:	)	
Junaid Islam, et al.	)	
Application No. 09/918,363	)	**DECISION ON REQUEST FOR**
Filed: July 30, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: PROGRAMMABLE NETWORK	)	
DEVICE	)	

This is a decision on the Request To Withdraw from Representation filed October 22, 2002.

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

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MERCHANT & GOULD
SCIENTIFIC ATLANTA, A CISCO COMPANY
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 07/28/2010

Applicant	: Arturo A. Rodriguez	: DECISION ON REQUEST FOR
Patent Number	: 7657916	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/918,376	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1707** 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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OFFICE OF PETITIONS

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

In re Application of	:	
Ratcliff, et al.	:	
Application No. 09/918,377	:	ON PETITION
Filed: 30 July, 2001	:	
Attorney Docket No. TI-33115	:	

This is a decision on a petition filed on 30 May, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the final Office action mailed on 14 January, 2005, with reply due absent extension of time on or before 14 April, 2005;
- Petitioner filed a reply in the form of an after final amendment on 31 March, 2005, which reply is not of right,[1] and the Examiner mailed an Advisory Action on 11 April, 2005;
- Petitioner filed a Notice of Appeal and fee (with request and fee for extension of time) on 19 April, 2005, but did not timely file the Appeal Brief and fee;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

- the instant application went abandoned by operation of law after midnight 19 June, 2005;
- the Office mailed the Notice of Abandonment on 21 March, 2006;
- Petitioner filed the instant petition on 30 May, 2006, with, *inter alia*, a reply in the form of an Appeal Brief and fee, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

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

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

The record (including the petition filed on 30 May, 2006) does not necessitate a finding that the delay between midnight 19 June, 2005 (date of abandonment), and 30 May, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Applicants (Ratcliff, Kleiwer and Allred) and their Counsel/Petitioner (Carlton H. Hoel (Reg. No. 29,934) when accepting Petitioner's representation that the delay in filing the response was unintentional.[8]

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 2600 to await the Examiner's Answer in due course.

---

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

[8] See 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).

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
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Paper No. 10

KENT A. HERINK
THE FINANCIAL CENTER
666 WALNUT STREET
SUITE 2500
DES MOINES, IA 50309-3993

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SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Stefaan Van Dyck	:	
Application No. 09/918,383	:	ON PETITION
Filed: July 30, 2001	:	
Attorney Docket No. 4532670/70200	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 5, 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 6, 2001.

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

The application file is being forwarded to Technology Center AU 1625.

Wan Laymon

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

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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In re Application of	:	
Gaurav Mittal	:	DECISION ON PETITION
Application Number: 09/918394	:	
Filing Date: 07/30/2001	:	
Attorney Docket Number:	:	
042933/299294	:	

This is a decision in reference to the petition filed under 37 CFR 1.137(a), on December 19, 2007, which, in view of petitioner's statement that the Office action was never received, is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned on March 1, 2007, for failure to timely file a response to the non-final Office action mailed on November 28, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on June 29, 2007.

Petitioner asserts that the non-final Office action mailed on November 28, 2006, was never received because it was sent to an old correspondence address.

Specifically, petitioner asserts that a Revocation of Power of Attorney and New Power of Attorney by Assignee was filed on October 27, 2006, but never entered by the Office. Petitioner avers that the non-final Office action subsequently mailed on November 28, 2006, was sent to the old correspondence address. Petitioner states that the Notice of Abandonment was also mailed to the old correspondence address.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action 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.

A review of the official file reveals that a power of attorney and change of correspondence address were filed on October 27, 2006, but that the power of attorney and change of correspondence address was not entered. Consequently, the non-final Office action was mailed to the old correspondence address.[1]

As such, the showing of record is that the Office erred in mailing the non-final Office action mailed on November 28, 2006, to the previous address rather than the current correspondence address.

The petitioner has made a sufficient showing of nonreceipt of the non-final Office action mailed on November 28, 2006. As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

As the present petition was not necessitated by an error on the part of petitioner, no fee is due. The petition fee will be credited to counsel's 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.[2] The three (3)-month extension request filed on December 19, 2007, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on November 28, 2006, and therefore is unnecessary. The extension of time fee paid on December 19, 2007, will be refunded to counsel.

Receipt of the power of attorney and change of correspondence address is acknowledged. A Notice Regarding Change of Power of Attorney and a Notice of Acceptance of Power of Attorney will be mailed under separate cover.

Receipt of the amendment filed in response to the non-final Office action mailed on November 28, 2006, is acknowledged.

The application file is being referred to the Technology Center Art Unit 2618. As a reply to the non-final Office action mailed on November 28, 2006, has been filed with the subject petition, it is not necessary to remail the outstanding Office action.

---

[1] It is further noted that the Notice of Abandonment mailed on June 29, 2007, was returned to the Office as undeliverable.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No. 11

ROBERT B. STOREY
BERESKIN & PARR
BOX 401, 40 KING STREET WEST
TORONTO, ON M5H 3Y2
CANADA

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APR 16 2004

OFFICE OF PETITIONS

In re Application of	:
Naomi Matsuura et al	:
Application No. 09/918,398	: DECISION ON PETITION
Filed: July 31, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 11784-3	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 11, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/222,481, filed July 31, 2000.

The petition is **Granted**.

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

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on July 31, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/222,481, which was filed on July 31, 2000, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/222,481 is granted.

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

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

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

The application is being forwarded to Technology Center AU 2874 for appropriate action on the amendment submitted February 11, 2004 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/222,481, filed July 31, 2000.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON TX 77002-4995

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JUN 1 7 2004

OFFICE OF PETITIONS

In re Application of	:
Mohamed M. Haq	:
Application No. 09/918,413	: DECISION ON PETITION
Filed: July 30, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 069089.0103	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 13, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;[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)(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 30, 2001, within twelve months of the filing date of the prior provisional application, Application No. 60/269,051, which was filed on February 15, 2001, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

---

[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

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

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment [2] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

By hand: Customer Window located at:
2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

---

[2]Note 37 CFR 1.121

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

Karen Creasy

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

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United States Patent and Trademark Office
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BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON, TX 77002-4995

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OFFICE OF PETITIONS

In re Application of	:	
Mohamed M. Haq	:	
Application No. 09/918,413	:	DECISION ON PETITION
Filed: July 30, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 069089.0103	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of a prior-filed provisional application.

The petition is **Granted.**

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

> **(1)** the surcharge set forth in 37 CFR 1.17(t);
>
> **(2)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and
>
> **(3)** the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on July 30, 2001, which was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/269,051, which was filed on February 15, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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 the prior-filed provisional applications is granted.

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

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

The application is being forwarded to Technology Center AU 3626 for the examiner to consider the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/269,051, filed February 15, 2001.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

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BAKER BOTTS LLP
910 LOUISIANA
HOUSTON, TX 77002-4995

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OFFICE OF PETITIONS

In re Application of	:	
Mohamed M. Haq	:	
Application No. 09/918,413	:	DECISION ON PETITION
Filed: July 30, 2001	:	TO WITHDRAW
Attorney Docket No. 069089.0103	:	FROM RECORD
	:	

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 6, 2006.

The request is **NOT APPROVED**.

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

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

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy of this decision is being mailed to the address noted on the request to withdraw. However, if Mr. Marc A. Sockol wishes to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

A review of the file record discloses that a reply to the non-final Office action of January 19, 2006, was received on May 10, 2006. Accordingly, Technology Center AU 2166 will take this case up for action in the normal course of business.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Marc A. Sockol
Brown Raysman Millstein Felder & Steiner LLP
303 Twin Dolphin Drive, Suite 600
Redwood Shore, CA 94065

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
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WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Julia et al.	:	DECISION ON APPLICATION
Application No. 09/918,512	:	FOR
Filed: August 1, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 06652.0462	:	
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed September 20, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to eight (8) 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 eight **(8)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 21, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The period of adjustment of 192 days for Office delay was reduced by 234 days for applicant delay. On September 20, 2004, 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

[1] PALM records indicate that the Issue Fee was also received in the Office on September 20, 2004.

the mailing of the Notice of Allowance is 8 days. Applicants dispute the reduction of 50 days attributed to a delay in responding to the Notice to File Missing Parts of Application mailed September 6, 2001. Applicants state that their response was received in the Office on November 29, 2001, and accordingly, there was no applicant delay. In support thereof, applicants submit a copy of their date-stamped and itemized postcard, acknowledging receipt by the Office of their response on November 29, 2001.

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

Applicants are correct. Their response to the Notice to File Missing Parts of Application mailed September 6, 2001, is of record in the application with a date of receipt by the Office of November 29, 2001. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicant a delay of 50 days. The response was filed within the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is eight (8) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

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

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

Enclosure: Copy of Revised PAIR Screen

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OFFICE OF PETITIONS

RAJA SINGH TULI
555 RENE LEVESQUE WEST
SUITE 1130
MONTREAL QC H2Z1B-1 CA CANADA

In re Application of :
Raja Singh Tuli :
Application No. 09/918,523 : DECISION ON PETITION
Filed: August 1, 2001 :
Attorney Docket No. None :

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

The petition is **DISMISSED.**

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

The application became abandoned for failure s to timely pay the issue and publication fees on or before April 7, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed January 7, 2005, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on June 13, 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). 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 two

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 April 8, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As 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 two 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 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. In this case, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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RALPH A. DOWELL OF DOWELL & DOWELL P.C.
2111 EISENHOWER AVE
SUITE 406
ALEXANDRIA, VA 22314

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In re Application of
Raja Singh Tuli
Application No. 09/918,523
Filed: August 1, 2001
Attorney Docket No. 16443

ON PETITION

This is a decision in response to the renewed petition, filed July 25, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 7, 2005. A Notice of Abandonment was mailed on June 13, 2005. On September 28, 2007, a petition under 37 CFR 1.137(b) was filed. The petition was dismissed in a decision mailed January 25, 2008. In response on September 9, 2008, the present petition was filed, including an appropriate 4-month petition for extension of time.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The 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) an adequate showing and statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No. 12

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Hidekazu Nishigaki et al
Application No. 09/918,539
Filed: August 1, 2001
Attorney Docket No. 212031US2

This is a decision on the petition, filed April 5, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 29, 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 Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2671 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

---

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

Set. Doc.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 21 2004
Mailed:

BC
Paper Number __

In re application of
Hyun-Sook Kim et al.
Serial No. 09/918,552
Filed: August 1, 2001
For: WASHING MACHINE AND CONTROLLING METHOD THEREOF

DECISION ON PETITION

This is a decision on PETITION UNDER 37 C.F.R. 1.181, filed on January 16, 2004, requesting that the examiner be instructed to withdraw the objection to claims 4, 5 and 26-28 in the final Office action (Paper No. 6) mailed on November 17, 2003, and to provide a non-final Office action on the merits with respect to claims 4, 5 and 26-28.

DECISION

Subsequent to the filing of the present Petition, the applicants filed an after-final amendment on March 12, 2004 that overcame the objections of claims 4 and 5 and cancelled claims 26-28. On March 31, 2004, a Notice of Allowability was mailed in this application. Hence, the issue of the present Petition has been rendered moot.

Accordingly, this PETITION is **DISMISSED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005-1202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

COPY MAILED
MAY 2 0 2003
OFFICE OF PETITIONS

Yisun Song, Esq.
Hunton & Williams
Suite 1200
1900 K Street, N.W.
Washington, DC 20006

In re Application of	:	
Hwa Suk Chung	:	
Application No. 09/918,567	:	ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. 99999.000309	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 July 2, 2002, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 3, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $465.00 extension of time submitted with the petition on April 30, 2003 was subsequent to the maximum extendable period for reply, the extension of time filed with the instant petition is unnecessary and the fee will be credited to petitioner's deposit account.

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

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

The application file is being forwarded to Technology Center 3600, Art Unit 3643 for consideration of the amendment submitted with the instant petition.

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

Sherry D. Brinkley
Petitions Examiner

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/11/06

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 6602724

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

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

Lamonte M. Newsome

Thank You For Your Assistance

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

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

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

Comments:

_____

_____

_____

_____

_____

SPE — **Art Unit** 2812

OIPE JC88
FEB 20 2002
PATENT & TRADEMARK OFFICE

PATENT
ATTY. DOCKET NO. CIT1410-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Wold *et al.* Art Unit: 1645
Serial No.: 09/918,687 Examiner: Unassigned
Filed: July 27, 2001
Title: A RAPID, QUANTITATIVE METHOD FOR THE MASS SPECTROMETRIC ANALYSIS OF NUCLEIC ACIDS FOR GENE EXPRESSION AND GENOTYPING

The PTO did not receive the following listed item(s) Amount $745.00

Box Sequence
U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

TRANSMITTAL LETTER

Sir:

In response to the notice to file missing parts of nonprovisional application mailed September 14, 2001, Applicant provides herewith a computer readable and a paper copy of the Sequence Listing in accordance with 37 C.F.R. § 1.821 *et seq.* The remaining items noted as missing parts will be submitted under separate cover to Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231.

Transmitted herewith for the above-identified application please find:

1. Statement Under 37 C.F.R. §§ 1.821(f) and (g) (1 pg.);
2. Verified Statement Under 37 C.F.R. §§ 1.821(f) (1 pg.);
3. Response to Notice to File Missing Parts of Nonprovisional Application (2 pgs.);
4. Sequence Listing (2 pgs.);
5. Sequence Listing in computer readable form (3.5" disk);
6. Copy of Notice to File Missing Parts (3 pgs.); and
7. Return Postcard

CERTIFICATION UNDER 37 CFR §1.8	
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, February 14, 2002, in an envelope addressed to: U.S. Patent and Trademark Office Box Sequence, P.O. Box 2327, Arlington, VA 22202.	
Mikhail Bayley	
Name of Person Mailing Paper	
Mikhail Bayley	February 14, 2002
Signature	Date

Gray Cary\GT\6279720.1
104662-53

A Petition for Extension of Time and Check No. 510632 in the amount of $745.00 have been filed under separate cover. The Commissioner is hereby authorized to charge any additional fees associated with the filing submitted herewith, or credit any overpayment, to Deposit Account No. 50-1355.

Respectfully submitted,

Date: February 14 , 2002

Lisa A. Haile, Ph.D.
Reg. No. 38,347
Telephone: (858) 677-1456
Facsimile: (858) 677-1465

GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1100
San Diego, California 92121-2133

USPTO Customer Number: 28213

OIPE JC88
FEB 2 0 2002
PATENT & TRADEMARK OFFICE

#7

PATENT
Attorney Docket No.: CIT1410-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Wold *et al.*	Art Unit:	1645
Serial No.:	09/918,687	Examiner:	Unassigned
Filed:	July 27, 2001		
Title:	A RAPID, QUANTITATIVE METHOD FOR THE MASS SPECTROMETRIC ANALYSIS OF NUCLEIC ACIDS FOR GENE EXPRESSION AND GENOTYPING		

Box Sequence
U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

Dear Sir:

In response to the notice to file missing parts of nonprovisional application mailed September 14, 2001, Applicant provides herewith a computer readable and a paper copy of the Sequence Listing in accordance with 37 C.F.R. § 1.821 *et seq*. The remaining items noted as missing parts will be submitted under separate cover to Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231.

Please amend the application as follows:

In the Specification:

Following the abstract, please insert the attached Sequence Listing with subsequent page numbering thereafter.

CERTIFICATION UNDER 37 CFR §1.8	
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, **February 14, 2002**, in an envelope addressed to: U.S. Patent and Trademark Office Box Sequence, P.O. Box 2327. Arlington, VA 22202.	
Mikhail Bayley	
Name of Person Mailing Paper	
Mikhail Bayley	**February 14, 2002**
Signature	Date

Gray Cary\GT\6279728.1
104662-53

If the Examiner would like to discuss any of the issues raised in this Amendment or the attached sequence listing, Applicants' representative can be reached at (858) 677-1456.

Respectfully submitted,

Date: February 14, 2002

Lisa A. Haile, Ph.D.
Reg. No. 38,347
Telephone: (858) 677-1456
Facsimile: (858) 677-1465

GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1100
San Diego, CA 92121-2133

USPTO Customer Number: 28213

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FEB 2 0 2002
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/918,687	07/27/2001	Barbara J. Wold	CIT1410-1

CONFIRMATION NO. 2185

FORMALITIES LETTER

OC000000006559903

Lisa A. Haile, J.D., Ph.D.
GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1600
San Diego, CA 92121-2189

Date Mailed: 09/14/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **710** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $724.
  - **$324** for **18** total claims over 20.
  - **$400** for **5** independent claims over 3 .
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 1564.**

- 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

OIPE JC31
MAR 0 5 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS
ORIGINALLY FILED

PATENT
ATTORNEY DOCKET NO.: CIT1410-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Wold, et al.	Art Unit:	Unknown
Application No.:	09/918,687	Examiner:	Unknown
Filed:	July 27, 2001		
Title:	A RAPID, QUANTITATIVE METHOD FOR THE MASS SPECTROMETRIC ANALYSIS OF NUCLEIC ACIDS FOR GENE EXPRESSION AND GENOTYPING		

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS

Sir:

In response to the Notice to File Missing Parts of Application mailed September 14, 2001, enclosed are:

1. A copy of the Notice to File Missing Parts of Application (2 pages);
2. An executed Declaration For Patent Application (20 pages);
3. Power of Attorney by Assignee (2 pages);
4. Petition for Three (3) Months Extension of Time fee (2 pages);
5. Check No. 501631 in the amount of $1,267.00; and
6. Return Receipt Postcard.

CERTIFICATION UNDER 37 CFR §1.8	
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, **February 14, 2002,** in an envelope addressed to: BOX MISSING PARTS, Commissioner for Patents, Washington, D.C. 20231.	
Cecilia Tobin *(Name of Person Mailing Paper)*	
Cecilia Tobin *(Signature)*	**February 14, 2002** *(Date)*

Gray Cary\GT\6279778.1
104662-53

Applicants claim small entity status in the above-identified application. Pursuant to 37 C.F.R. § 1.27, a verified statement claiming small entity status is not required.

The filing fee is calculated as follows:

☒ **SMALL** entity status is claimed.

	Number Filed		Number Extra		Rate			Fee	
					Large Entity	Small Entity		Large Entity	Small Entity
Total Claims	38 -20	=	18	X	$18	$09	=	$.00	$ 162.00
Independent Claims	8 -3	=	5	X	$84	$42	=	$.00	$ 210.00
Multiple Dependent Claims Presented: ___ Yes _X_ No					$280	$140		$.00	$
					BASIC FEE SURCHARGE FEE EXTENSION OF TIME FEE			$740.00	$ 370.00 $ 65.00 $ 460.00
					TOTAL FEE			$	**$1,267.00**

Enclosed is Check No. 501631 in the Total amount of $1,267.00; which consists of which consists of $370.00 for the basic filing fee; $65.00 surcharge fee for missing parts of the application, $460.00 for the Three (3) Months Extension of Time fee; $162.00 for Eighteen (18) additional

dependent claims fee; $210.00 for Five (5) additional independent claims fee. The Commissioner is hereby authorized to charge any additional fees that may be associated with this communication, or credit any overpayment to Deposit Account No. 50-1355. A duplicate copy of this Transmittal Sheet is enclosed.

Respectfully submitted,

Date: **February 14, 2002**

By: Richard J. Trembac Reg. No. 37,643
for: Lisa A. Haile, J.D., Ph.D.
Registration No.: 38,347
Telephone: (858) 677-1456
Facsimile: (858) 677-1465

USPTO CUSTOMER NUMBER 28213
GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1100
San Diego, California 92121-2133

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/918,687	07/27/2001	Barbara J. Wold	CIT1410-1

CONFIRMATION NO. 2185

FORMALITIES LETTER

OC000000006559903

Lisa A. Haile, J.D., Ph.D.
GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1600
San Diego, CA 92121-2189

Date Mailed: 09/14/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

03/11/2002 AOSMAN1 00000077 09918687

01 FC:201 370.00 OP
02 FC:202 210.00 OP
03 FC:203 162.00 OP
04 FC:205 65.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **710** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $724.
  - **$324** for **18** total claims over 20.
  - **$400** for **5** independent claims over 3 .
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 1564.**

- 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 I - ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. ~~8~~ 7

Schwabe, Williamson & Wyatt, P.C.
1211 SW Fifth Avenue
Suites 1600-1900
Portland, OR 97204

COPY MAILED

JUN 2 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Donald R. Primrose, et al.	:	
Application No. 09/918,691	:	DECISION GRANTING PETITION
Filed: July 30, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 109897-129941	:	

This is a decision on the petition filed June 11, 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 30, 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 2665 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 FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 23 2004

OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of
David J. Corisis
Application No. 09/918,739
Filed: July 31, 2001
Attorney Docket No. 2811.5US (96-0243.5)

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 19, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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.

The application is being referred to Technology Center AU 2827 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 8, 2007

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction for Appl. No. 09/918739 patent no. 6830961

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

2822

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

Clare L. Hoke Jr.
Suite 11
1318 N. Monte Vista Ave.
Upland, CA 91786

COPY MAILED
OCT 0 9 2003
OFFICE OF PETITIONS

In re Application of :
Clare L. Hoke :
Application No. 09/918,761 : ON PETITION
Filed: August 1, 2001 :
Attorney Docket No: :

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

The petition is **dismissed at moot**.

The instant petition under 37 CFR 1.137(a) was filed presumably because applicant believed that the application was abandoned for failure to respond to an Office action mailed June 3, 2003, which allowed a one month period for reply. Applicant is advised that the application is not yet considered abandoned because the June 3, 2003, Office action allowed for extensions of time pursuant to 37 CFR 1.136(a). The time period for responding to the Office action could, therefore, be extended for a maximum of six months from the mailing date of the Office action. The instant petition is moot because the application is not yet abandoned because a proper response can still be timely submit if an extension of time under 37 CFR 1.136(a) is obtained.

Although a response to the Office action was received with the petition, the Office had no way of charging the appropriate fee of $475.00 for the extension of time within the third month. At this juncture, applicant may only obtain an extension of time. Applicant is cautioned that a petition under 37 CFR 1.137(a) requires that the abandonment of the application be unavoidable and applicant must establish that the entire delay—from the due date for a response to the filing of a grantable petition—was unavoidable. If applicant does not file a timely response to this decision—in the form of an extension of time pursuant to 37 CFR 1.136 as the replacement specification has already been received—it is unlikely that a petition under 37 CFR 1.137(a) will be considered grantable because applicant will have intentionally waited for application to become abandoned.

Although applicant is encouraged to obtain an extension of time as soon possible, applicant is given **TWO MONTHS** from the mailing date of this decision in which to file a response. Extensions of time under 37 CFR 1.136(a) are permitted. If a timely response is not received, the application will become abandoned. 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.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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

By hand: Office of Petitions
2201 South Clarke Place
Crystal Plaza 4, Suite 3C23
Arlington, Virginia 22202

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petition 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. 15

Clare L. Hoke, Jr.
Suite 11
1318 N. Monte Vista Avenue
Upland, CA 91786

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NOV 1 3 2003
OFFICE OF PETITIONS

In re Application of :
Clare L. Hoke :
Application No.: 09/918,761 : LETTER
Filed: August 1, 2001 :
Attorney Docket No: :

This is in response to the Petition for Extension of Time filed October 28, 2003, which is responsive to the decision on petition mailed October 9, 2003.

The decision of October 9, 2003, gave petitioner the option of filing a request for an extension of time or allowing the application to became abandoned and filing a petition under 37 CFR 1.137. On October 9, 2003, petitioner filed a request for an extension of time within the third month so as to make to the response to the Office action mailed June 3, 2003, timely. The request for an extension of time within the third month is granted.

No further responses to the decision on petition mailed October 9, 2003, are required, and petitioner will be refunded the petition fee of $55.00, in due course.

The application file will be forwarded to Technology Center 3600 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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OCT 09 2008

OFFICE OF PETITIONS

In re Application of :
Petrus Lambertus Adrianus Roelse :
Application No. 09/918,831 :
Filed: August 1, 2001 :
Attorney Docket No. NL 000444 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 31, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before July 28, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 28, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 29, 2008. On July 31, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on August 4, 2008.

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Banner & Witcoff, Ltd
Ten South Wacker Drive
Suite 3000
Chicago, IL 60606

In re application of
Application No. 09/918,841
Filed: July 31, 2001
For: METHOD AND SYSTEM FOR SELECTIVELY DISPLAYING ADVERTISEMENTS ON A DISPLAY DEVICE

DECISION ON WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 7, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition (A), the request is signed by one attorney with no indication that he is signing on behalf of the other attorneys.

As to condition (B), instructions from one of the co-inventors is insufficient. Both inventors must agree to the withdrawal.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3866
Facsimile No.: (703) 605-0586

KJD/nlw

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OFFICE OF PETITIONS

In re Application of :
Danny A. McCall et al :
Application No. 09/918,851 :
Filed: July 31, 2001 :
Attorney Docket No. 30696-704.101 :

ON PETITION

This is a decision on the petition filed, September 29, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 7, 2004, which set a shortened statutory period for reply of three (3) months. Two-months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 8, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on May 19, 2006.

The revocation of power of attorney with new power of attorney and change of correspondence address submitted May 12, 2006 is not accepted. Signatures of all the inventors are required. Submit multiple forms if more that one signature is required. A courtesy copy of this decision is being mailed to the address on the petition and Customer Number 44777; 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 matters is being referred to Technology Center AU 2162 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: James D. Wright
214 North Tryon Street
Hearst Tower, 47th Floor
Charlotte, NC 28202

cc: W. Edward Ramage
Commerce Center Suite 1000
211 Commerce St.
Nashville, TN 37201

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENNEDY COVINGTON LOBDELL & HICKMAN, LLP
214 N. TRYON STREET
HEARST TOWER, 47TH FLOOR
CHARLOTTE, NC 28202

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OFFICE OF PETITIONS

In re Application of	:	
Danny A. McCall et al	:	
Application No. 09/918,851	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. 30696-704.101	:	

CORRECTED DECISION

This is a decision on the petition filed, September 29, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 7, 2004, which set a shortened statutory period for reply of three (3) months. Two-months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 8, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on May 19, 2006.

The revocation of power of attorney with new power of attorney and change of correspondence address submitted May 12, 2006 is not accepted. Signatures of all the inventors are required. Submit multiple forms if more that one signature is required. A courtesy copy of this decision is being mailed to Customer Number 44777; 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 matters is being referred to Technology Center AU 2162 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: W. Edward Ramage
Commerce Center Suite 1000
211 Commerce St.
Nashville, TN 37201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET, SUITE 1600
CHICAGO, IL 60603-3406

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OFFICE OF PETITIONS

In re Application of

MARDER, et al.
Application No. 09/918,874
Filed: July 30, 2001
Attorney Docket No. 21182-7067

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 21, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Scott J. Menghini of FITCH, EVEN, TABIN & FLANNERY do 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 below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID MAHER**
BINGHAM MCCUTCHEN LLP
THREE EMBARCADERO CENTER, SUITE 1800
SAN FRANCISCO, CA 94111

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re application of:
Ting K. Yee, et al.
Application No. 09/918,886
Filed: July 30, 2001
For: OPTICAL COMMUNICATIONS USING MULTIPLEXED SINGLE SIDEBAND TRANSMISSION AND HETERODYNE DETECTION

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on June 15, 2005.

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

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

All of the attorneys/agents associated with Customer Number 00758 have been withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Cora Fedomock
Berkeley Law & Technology Group, LLC
1758-114th Ave. SE, Ste. 110
Bellevue, WA 98004

UNITED STATES PATENT AND TRADEMARK OFFICE

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BERKELEY LAW & TECHNOLOGY GROUP
1700 NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

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APR 2 0 2006

OFFICE OF PETITIONS

In re Application of
Keller
Application No. 09/918,896
Filed: July 30, 2001
Attorney Docket No. 012.P53014
For: PROGRAMMABLE SONET FRAMING

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

This is a decision on the petition, filed April 1, 2005 (certificate of mailing date March 30, 2005), 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 or under a multinational international treaty on July 30, 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 petition is granted.

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

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

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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December 31, 2003

William F. Prendergast
Brinks Hofer Gilson & Lione
P. O. Box 10395
Chicago, IL 60610

In re application of:
Paulman et al DECISION ON PETITION
Serial No.: 09/918,922
Filed: July 30, 2001
For: FOLDED, BENT AND RE-EXPANDED HEAT EX CHANGER TUBES AND ASSEMBLIES

This is a decision on the petition received on January 21, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice of Missing Parts of Application mailed August 22, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 23, 2001. The notice of abandonment was mailed on November 18, 2002.

On January 21, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice of Missing Parts mailed on August 22, 2001.

The substitute specification received on November 21, 2002, will be used to correct the filing informalities.

The petition is hereby Granted.

The application has been completed for release to Technology Center 3743.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day

NOV 2 1 2002
PATENT & TRADEMARK OFFICE

FOLDED, BENT AND RE-EXPANDED HEAT EXCHANGER TUBE AND ASSEMBLIES

RELATED APPLICATIONS

This application is a continuation-in-part application from pending U.S. Serial No 08/798,615, filed February 11, 1997, which is a divisional application of U.S. Serial No. 08/572,180, filed December 13,1990, which is based on provisional application U.S. Serial No. 60/006,655, filed November 13, 1995.

FIELD OF THE INVENTION

The present invention relates to a novel thin-walled heat exchanger tube and a method of manufacturing heat exchanger assemblies utilizing such thin-walled heat exchanger tubes.

Aluminum evaporator coils have been used for decades in frost-free refrigeration systems. Their adoption and use has been predicated upon cost-effective manufacturing methods relative to competing technologies, coupled with continued improvements in operating efficiencies and the use of less refrigerant material in the refrigeration system. For example, the tube wall thickness has typically declined from about 0.035 inches to approximately 0.019 inches over the past twenty years. Additionally, fin thicknesses have also been typically reduced from 0.010 to 0.00575 inches during this same period of time. Such savings in material wall thickness has been possible because the finished evaporator coil generally requires a burst strength of only about 500 pounds per square inch maximum while current models even with the thinnest tube wall-thicknesses possess burst strengths of over 1,000 pounds per square inch, more than a sufficient safety factor.

However, the problem facing heat exchanger assembly manufacturers has been to devise an acceptable method of manufacturing a coil using thin-walled tubing. The problem of the known prior art methods is highlighted by the requirement of bending the thin-walled tubing around a small radius to create the "return bend." Thin-walled tubing collapses unless properly supported either internally with a mandrel bend, which is now uneconomic

because of cleanliness requirements of the new refrigerants, or externally by spacers as has been the case for many years in the manufacture of this style of evaporator coil. In addition, some methods of manufacture require that the thin-walled tubing be pushed or pulled through collared fins sets or arrays. Because thin-walled heat exchanger tubes do not possess sufficient strength and rigidity, they are generally unsuitable for this type of handling in manufacture.

Various means have been suggested for containing the thin-walled heat exchange tube at the "return bend." One such method utilizes spacers as the tube is wound around a mandrel thereby resulting in a controlled collapse of the tubing at the return bend that is later expanded through internal pressure to something close to its original size and shape. See for example, U.S. Patent 5,228,198, assigned to the assignee of the present invention for a discussion of the technique. Alternately, it has been suggested that the heat exchanger tubing may be ovalized in cross-section to fit into keyhole shaped slots in the fin set or array which are then re-expanded through the use of internal pressure. See for example, U.S. Patents 4,778,004 and 4,881,311 assigned to the assignee of the present invention for such techniques. However, each of these methods result in return bend portions that must be externally supported to prevent collapse of the tube.

SUMMARY OF THE INVENTION

Therefore, one object of the present invention is to provide a novel method of making and utilizing a thin-walled elongated heat exchanger tube having one or more collapsed sidewall portions extending substantially the length thereof in a heat exchanger assembly of the side-entry type which may be readily manufactured and assembled.

Another object of the present invention is to provide a thin-walled heat exchanger assembly which is more compact and rugged than existing heat exchanger assemblies while possessing increased efficiencies over existing refrigeration systems.

It is another object of the present invention to permit easy assembly and positioning of the serpentine tube into the associated fin set without the use of collars or other devices.

It is still another object of the present invention to utilize a novel heat exchanger tube arrangement wherein a thin-walled elongated tube having a collapsed sidewall extending substantially the length thereof is inserted within a straight tube of a larger diameter and then re-inflated to form a tight bond and seal with the outside tube to provide a shield for the interior tube against leakage. This permits the use of such heat exchanger assemblies in refrigeration systems containing combustible refrigerants.

It is yet another object of the present invention to provide a novel heat exchanger tube wherein a heating wire is positioned within the elongated opening of the collapsed tube, the tube and heating wire is inserted within a straight tube of a larger diameter and then re-inflated to form a tight bond and seal with the outside tube to provide a structure where the heating wire contained between the heat exchanger tubes is positioned adjacent the fin sets or array to readily accomplish defrosting of the heat exchanger assembly.

In accordance with the present invention, a thin-walled heat exchanger tube extruded to final cross-section or is passed through a folding mechanism or Yoder style rolling mill to provide an elongated tube having one or more collapsed side-wall portions extending substantially the length of the tube. The cross-section of the collapsed elongated tube provides one or more elongated recesses, channels or openings extending substantially the length of the heat exchanger tube. The one or more collapsed sidewall portions may be of equal or unequal lengths and are formed at multiple angles around the circumference of the tube. In exemplar embodiments, the tube may include two opposed recesses or three, four or five recesses equidistantly spaced about a circumference of the tube and extending substantially the length thereof.

The effect of compressing or collapsing the tubing to create recesses or openings extending the length of the tubing and around the circumference at any angle reduces the effective diameter of the heat exchanger tube while

increasing the effective tube-wall thickness. Such a tube structure permits the bending of the resilient tube having a smaller diameter about a mandrel in multiple orientations circumferentially with the folded wall preventing the collapse of the tubing in the bend area. Thus, by reducing the effective diameter of the tube while increasing the effective wall thickness of the tube, smaller mandrels and multiple directions circumferentially may be used for bending the heat exchanger tube into the serpentine coil. This structure permits the bending of the collapsed tube having a wall thickness of as little as 0.012 inches (generally in the range of 0.010 - 0.025 inches) around mandrels of ½ inch or less (generally from 3/8 to 1½ inches or more) to provide a finish coil containing tubes as close together in the plane of bending of ½ inch or less instead of the 5/8 inches or greater, as is true of existing heat exchanger assemblies. This structure provides an increase of tube density in a given coil configuration of up to 20 to 50 percent over existing structures, a significant factor in making heat exchanger assemblies.

Additionally, in accordance with the present invention, the inward folding of the elongated tube to provide collapsed sidewall portions extending substantially the length of the tube and at multiple angles circumferentially provides a collapsed tube where the interior surfaces of the folds actually touch or come very close to touching or engaging the opposite wall of the tube or the opposing fold. Such a structure prevents the portion of the tube that is in actual contact with the mandrels during the bending operation from forming a “cave” or "dent" by moving away from the mandrel. Such “caves” or “dents” generally do not reround themselves during the re-inflation of the tubing process. The opposite sidewall of the tube or opposing fold being in contact with the sidewall which engages the mandrel, has an effect of reinforcing the tube wall against such “caving” or “denting” during wrapping and, thus, increases the effective wall thickness for the purpose of bending.

During the manufacture of heat exchanger tubes in accordance with the present invention, at least one end of the heat exchanger tube for a distance of approximately 6 to 12 inches from the end is not collapsed during engagement with the folding mechanism or means and remains in the as-

extruded round cross-sectional configuration. The round end structure facilitates ready attachment or connection with a pressure fitting when the time for re-inflation occurs.

Thus, the present invention discloses a manufacturing method for making heat exchanger assemblies that eliminates the use of spacers during the bending operation of the heat exchanger tube around multiple diameter mandrel assemblies. Additionally, the present invention, utilizing a collapsed thin-walled heat exchanger tube, provides for a heat exchanger assembly having a more dense spacing of the tube utilizing smaller mandrel sizes than is presently available under existing prior art structures. Additionally, mandrels of differing sizes and greater design opportunities exist for use with the refrigeration industry thereby providing increased evaporator efficiency of the refrigerating system. Also, in accordance with the present invention, thinner fins and tube walls may be utilized than had previously been possible for use in making heat exchanger assemblies containing a serpentine elongated heat exchanger tube and results in a more efficient tube having a substantial lower cost in manufacturing.

Thus, the present invention significantly simplifies the tube bending mechanism utilized in serpentine-type heat exchanger assemblies while providing an initial lower investment in equipment costs to make heat exchanger assemblies in accordance with the present invention.

Also, the present invention allows for a much greater flexibility in the configuration and placement of heat exchanger tubes relative to the fin set and enables the designer to change concentration of tubes and fins within the same finished product.

The present invention consists of certain novel features and structural details hereinafter fully described, illustrated in the accompanying drawings, and particularly pointed out in the appended claims, it being understood that various changes in the details may be made without departing from the spirit, or sacrificing any of the advantages of the present invention.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a perspective view of an extruded thin-walled heat exchanger tube fin accordance with the present invention.

FIG. 1A is a cross-section of the thin-walled heat exchanger tube shown in FIG. 1.

FIG. 2 is a perspective view of a collapsed thin-walled heat exchanger tube during rolling down through a folding mechanism or means of the exchanger tube of FIG. 1 to provide the elongated collapsed heat exchanger tube in accordance with the present invention.

FIG. 2A is a front view of the heat exchanger tube passing through the folding mechanism as shown in FIG. 2.

FIG. 3 illustrates a set of multiple diameter mandrels used for bending the various radii bends in a continuous wrapping motion for making the serpentine tube in accordance with the present invention.

FIG. 4 is the heat exchanger tube of FIG. 2 continuously wrapped on the mandrels of FIG. 3 in accordance with the present invention.

FIG. 5 illustrates the collapsed serpentine-type heat exchanger tube formed in FIG. 4 during insertion into openings in a fin set or array in accordance with the present invention.

FIG. 6 illustrates the serpentine heat exchanger tube of FIG. 5 after expansion to engage the fin set or array using internal pressure means in accordance with the present invention.

FIG. 7 is a tube within a tube cross-section illustrate the insertion of the collapsed tube within a round tube of a larger, diameter in accordance with a further embodiment of the present invention.

FIG. 7A is the tube within a tube as depicted in FIG. 7 after expansion of the inner collapsed tube using internal pressure means in accordance with the present invention.

FIG. 8 is a tube within a tube as shown in FIG. 7 further including an elongated heating wire positioned within the elongated opening provided by the collapsed thin-walled heat exchanger tube in accordance with a further embodiment of the present invention.

FIG. 8A is the tube within a tube and heating wire as depicted in FIG. 8 after expansion of the inner collapsed tube using internal pressure means in accordance with the present invention.

FIG. 9 is a perspective view of the collapsed or folded heat exchanger tube of FIG. 2 being inserted through individual fin sets or arrays associated with each pipe of a heat exchanger assembly.

FIG. 9A illustrates a heat exchanger assembly of the heat exchanger tube of FIG. 9 continuously arranged on mandrels in accordance with the present invention.

FIG. 9B illustrates the finished heat exchanger assembly of FIG. 9A after air expansion utilizing internal pressure means to expand the collapsed tube to engage and be locked to the fin sets or arrays in accordance with the present invention.

FIG. 10A is an end view of one embodiment of the heat exchanger tube including two opposed collapsed sidewall portions.

FIG. 10B is an end view of one embodiment of the heat exchanger tube including three collapsed sidewall portions.

FIG. 10C is an end view of one embodiment of the heat exchanger tube including four collapsed sidewall portions.

FIG. 10D is an end view of one embodiment of the heat exchanger tube including five collapsed sidewall portions.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

Referring now to the drawings wherein like numerals have been used throughout the several views to identify the same or similar parts, the heat exchanger assembly 10 (FIG. 6) includes a one piece length of heat exchanger tubing 12 (FIGS. 1 and 1A) in the as-extruded round condition. The tubing 12 used for heat exchangers of the type used in home refrigerator systems typically have outside diameters of ¼ to ½ inch, with wall thicknesses 14 of between about 0.010 to 0.030 inches and calculated to provide a minimum burst strength. The wall thickness 14 will depend on the material selected for extrusion, such as AA1050 grade aluminum, and the tolerances

allowed by the aluminum extrusion process. The tubing 12 at this stage is in the as-extruded round configuration or "F" state typically with a fine-grained structure.

The tubing 12 is cut to length for the particular serpentine configuration desired in the finished heat exchanger assembly with one length for each assembly. This length may vary typically from as little as 15 feet to as much as 50 feet, depending on the total heat transfer required by the refrigeration system.

Preferably, about 6-12 inches on the ends of the tubing are preserved in their as-extruded "round" state, as will hereinafter be discussed. One end of each individual tube is then inserted 6-12 inches from the end, into a compression means or Yoder style rolling mill 15, as shown in FIGS. 2 and 3.

In FIG. 2, the thin-walled heat exchanger tube 12 is passed through a forming mechanism compressing means or Yoder style rolling mill 15 having a forming cavity in the die which cooperates with a compression wheel to provide an elongated tube 13 having a collapsed side-wall 16 (FIG. 2A) extending substantially the length of the tube 13. The cross-section of the collapsed elongated tube 13 provides an elongated recess, channel or opening 18 extending substantially the length of the heat exchanger tube, as also shown in FIG. 2A. The effect of compressing and collapsing the tubing 12 to create an elongated recess or opening 18 within the folded tube 13 extending the length of the tubing provides that the effective diameter of the collapsed heat exchanger tube 13 has been reduced while at the same time the effective wall thickness 14 has been increased. Such a tube structure permits the bending of the folded tube 13 having a smaller diameter, about a multiple diameter mandrels 20 with the sidewall 16 preventing the collapse of the tubing in the bend area. Accordingly, by reducing the effective diameter of the tube 13 while increasing the effective wall thickness of the tube, smaller mandrels 20 may be used for bending the heat exchanger tube into the desired serpentine coil. Also, such a structure permits the bending of collapsed tubes having a wall thickness of as little as 0.012 inches (generally in the range of 0.010 - 0.025 inches) around mandrels of ½ inch or less

(generally from 3/8 to 1½ inches or more). This provides a coil, according to the method of the present invention, containing tubes as close together in the plane of bending of ½ inch or less instead of the 5/8 inches of greater, as is true of existing heat exchanger assemblies, as the mandrel set 20 turns in a rotary fashion, as shown in FIG. 3. The folded tubing 13 exiting from the rolling mill 15 possessing the structural shape shown in FIG. 2A, and is then wrapped about the mandrels 20 with the open space 18 of the collapsed tube away from the mandrel surfaces 20A, as shown in FIG. 4. The rolling mill predeterminately controls the location of the open space on the collapsed tube so that the tube is properly positioned relative to the mandrel it will be wound around during the manufacture of the serpentine heat exchanger tube.

In effect, as shown in FIG. 4, the collapsed tube 13 having the elongated opening 18 therein is fed onto the multiple diameter mandrel assembly 20, with the opening 18 always on the outside of the mandrel surface 20A because the bending of heavier walled tubes having a smaller diameter becomes easier to do without collapse of the tubing in the bend area. By reducing the effective diameter and increasing the effective wall thickness in this manner, smaller mandrels may be used for bending. Typically, under previous methods of manufacture, a 5/16 inch outside diameter tube with a 0.022 inch wall thickness would collapse and be unusable. As pointed out above, the method of the present invention achieves an increase of tube density in a given coil of up to 20 per cent over conventional available coils. Also, it should be noted in accordance with the present invention, given dimensions are proportionate for various tube diameters and wall thicknesses of tubing and that this invention covers all ranges of diameters and wall thickness.

It is an aspect of the present invention that at least one end of the heat exchanger tubing 12 not be folded in the manner heretofore described. The purpose for leaving at least one end in the as-extruded round shape is that it permits for the simple hookup with a pressure fitting when the time for re-inflation occurs.

As pointed out above, FIG. 4 shows the preferred manner of wrapping of the folded tube about the mandrel surfaces 20A. The opening 18 of the folded tube 13 should be oriented away from the mandrel itself to permit the tube in the inflation mode to "open" back outwardly to its original round or nearly round state. Also, in accordance with the present invention, the elongated inwardly folded sidewall, identified as 16 in the drawings, preferably touches or comes in close contact with the opposite sidewall 16a of the tube 13. The purpose for this is to prevent the portion of the tube that is in actual contact with the mandrel during bending from forming a "cave" or "dent" by displacement away from the mandrel. Such "caves" or "dents" will generally not re-round themselves during re-inflation of the tubing process. The inward folded sidewall 16 of the tube 13 being in contact with the sidewall 16a which touches the mandrel surfaces 20A has the effect of reinforcing the tube wall against such "caving" or "denting" during wrapping and thus increases the apparent or effective wall thickness for the purpose of bending.

As shown in FIGS. 3 and 4, some of the return bends have different radii than others of the return bends. The purpose for these differing sized bend radii is to allow the tubing to be positioned in latter processing for variable tube spacing or for "jumpers" or other reasons to allow the finished coil to have tubes in almost any position within the finished heat exchanger assembly. FIG. 4 also shows a proposed tube layout that might use variable tube spacing for the purpose of catching frost in a frost-free refrigerator, for example.

FIG. 5 illustrates the spirally wrapped serpentine-type tube 17 containing the elongated opening 18 therein having been removed from the mandrels and being inserted into slots or fin holes 22 in the fin set or array 24. Unlike the prior art, the uninflated folded serpentine-type tube 17 of the present invention has a smaller diameter than the slots or fin holes 22 of the fin set or array 24 into which it is being inserted. Consequently, it is unnecessary to have collars or any other devices to facilitate the easy slippage or positioning of the serpentine-type tube 17 into the slots or fin holes, as is necessary with previously known methods of manufacture. Thus,

in accordance with the present Invention, the elongated folded or collapsed serpentine-type tube 17 may more easily be inserted into the fin set array than with other methods of manufacture. It is a further part of this invention that the "dog-bone" slots or fin holes 22 (FIG. 5) through which the serpentine return bends must be slid may be narrower than has previously been required, thus yielding greater fin surface area in the finished heat exchanger assembly. Also, the folded serpentine-type tube 17 being stiffer because of cold working maybe more easily slid into the fin slots or fin holes 22.

FIG. 6 illustrates the serpentine-type tube 12 and resultant heat exchanger assembly 10 after re-inflated to a new configuration, in this case, substantially round. In this process, the expanded tube sidewall 16 comes into intimate contact with the fin sets or array 24 and locks the array into contact with the expanded tube to produce an excellent tube-to-fin bond and consequently excellent heat transfer properties. The re-inflation process is extremely fast and inflation of the collapsed serpentine tube 13 at one point will not move the fin sets or array away from the tubing because there is not enough time for the mass of the fin to accelerate and produce movement away from the expanding tube. When the folded tube is positioned and held in the proper orientation with respect to the slots or fin holes 22 in the fin sets or array 24, the inflation of the folded tube 13 causes the expanded tube to conform to the geometry of the fin slots or fin holes.

FIGS. 7 and 7A shows a further embodiment of the present invention where a tube-in-tube arrangement is illustrated wherein the collapsed tube 13 has been inserted into a straight tube 25 having a larger surface diameter and then re-inflated to form a good tight bond between the outside of the collapsed tube and the inner surface of the straight tube 25. Both tubes together can then be serpentined and finned by conventional methods. This embodiment provides a shield for the interior tube, which has heretofore not been possible in manufacturing shielded interior tubes. Thus, an important aspect of the present invention is that upon re-inflation, the elongated opening 18 of the tube 13 does not fully re-expand to the round shape, thus providing a small elongated port 26 between the walls of the two tubes. This elongated port 26

may be used by escaping gases should the interior refrigerant containing tube 13 develop a leak. This design is of particular value in the design of refrigeration systems using combustible refrigerants.

FIGS. 8 and 8A illustrate a further embodiment of the present invention of the tube-in-tube arrangement as shown in FIGS. 7 and 7A, wherein an elongated heating wire 27 is positioned within the elongated opening 18 of the collapsed or folded tube 13. As set forth above with respect to FIGS. 7 and 7A, upon re-inflation, the elongated opening 18 of the collapsed tube 13 does not fully re-expand to the round shape, thus depositing the heating wire 27 within the elongated port 26 between the walls of the tubes. Such a structure permits placing the heating wire within the heat exchanger tubes to position the heat adjacent the fin sets or array, the source of the frost. This structure readily accomplishes defrosting of such heat exchanger assemblies while utilizing reduced power consumption.

FIGS. 9-9B illustrates an alternate type of finished heat exchanger assembly 10 wherein individual folded fin sets or arrays 24 have been predeterminately positioned on the elongated folded tube 13 (FIG. 9) by inserting the elongated collapsed tube through fin holes 22 in the arrays 24 and then having the tubes containing fin sets bent around mandrels 20 (FIG. 9A) prior to re-inflation of the tubes. The process of re-inflation captures and secures the individual fins to the tubes, as shown in FIG. 9B, to complete the heat exchanger assembly 10. In this embodiment of the present invention, it is also possible to have various forms of "collars" to increase the tube to fin contact thus decreasing the resistance of the heating flux between the tube and the fin. The method of using the folded and re-inflated tube containing fin sets therein permits the heat exchanger designer greatly increased flexibility not only in design of the tube layout but also the fin shape and placement of the array within the finished coil. Also, in such assemblies, both thinner fins and thinner tube walls are possible than have been used in the prior art because the fins do not support the expanded tubes or pipes.

In each of the foregoing embodiments, the tube 12 can be formed to include one of more collapsed sidewall portions or recesses 16. FIGS 10A -

10D illustrate alternate embodiments of the tube 12 having a plurality of collapsed sidewall portions or recesses 30 - 33. In each of the embodiments, the tube 12 and the multiple collapsed sidewall portions or recesses 30 - 33 can be formed by extrusion or using a conventional compression means or Yoder style rolling mill as is known in the art.

In the embodiment shown in FIG. 10A, the tube 12 includes a pair of opposed collapsed sidewall portions or recesses 30 that extend substantially the length of the tube 12. In the embodiment shown in FIG. 10B, the tube 12 includes three collapsed sidewall portions or recesses 31 that are equidistantly spaced about the circumference of tube 12 and extend substantially along the length of the tube 12. FIG. 10C illustrates the tube 12 with four recesses 32 that are positioned equidistantly about the circumference of the tube 12 and extend substantially along the length of the tube 12. FIG. 10D illustrates the tube 12 with five recesses 33 that are positioned equidistantly about the circumference of the tube 12 and extend substantially along the length of the tube 12.

As shown in FIGS. 10A - 10D, each of the collapsed sidewall portions or recesses 30 - 33 come very close to touching or actually touch the opposed or adjacent fold. The close proximity of the collapsed wall portions prevents those portions of the tube from forming a “cave” or "dent" during the bending operation. In that regard, the multiple collapsed sidewall portions or recesses 30 - 33 are preferably equidistantly spaced about the circumference of the tube 12 to facilitate such positioning of the opposed or adjacent folds. In addition, the close positioning of the collapsed sidewall portions or recesses 30 - 33 also permits the tube 12 to be wound onto the mandrel in a variety of orientations. In contrast, the tube 12 with one collapsed sidewall portion 16 is preferably positioned in a preselected orientation with the collapsed portion 16 facing away from the mandrel.

As shown in FIGS. 10A - 10D, the tube 12 can include from two folds or recesses 30 to five folds or recesses 33 that gradually decrease the ultimate collapsed diameter of the tube 12. The smaller diameters of the collapsed tubes 12 shown in FIGS. 10A - 10D permit the tube to be bent

about smaller mandrels to form smaller return bends and thus increase tube density in the final heat exchanger assembly. The smaller diameter of the tubes 12 also permits the return bends to have a smaller radius, which also permits the increase in the tube density in the final heat exchanger assembly. Further, the tube 12 can be collapsed to a desired diameter with multiple folds so that the tube has a sufficiently small diameter to fit within a tube array, or into the slots of an accordion type fin array prior to inflation of the tube. The particular number of folds or recesses used with the tube 12 can be selected depending upon the particular application for which the tube 12 is intended.

By forming the tube 12 with multiple recesses or folds, the tube 12 is increasingly work hardened to greater degrees to result in a tube having a higher bending, re-inflation, and burst strength when the tube 12 is thin-walled aluminum material. This permits the use of even thinner tubing in the heat exchanger which increases the heat exchanger efficiently while reducing material costs.

In accordance with the present invention, a novel method for making a heat exchanger assembly is disclosed which includes the steps of passing a thin-walled heat exchanger tube through a folding mechanism to provide an elongated tube having one or more collapsed sidewall portions extending substantially the length of the tube. The elongated collapsed heat exchanger tube is then rotated about either a multiple diameter or constant diameter forming mandrel to provide a spirally wrapped serpentine heat exchanger tube. The spirally wrapped serpentine heat exchanger tube is aligned with a heat transfer array having first and second parallel fin surfaces with each paralleled surface having aligned openings therein. The spirally wrapped and formed serpentine heat exchanger tube is then inserted into the openings in the heat transfer array and then re-expanded to move the collapsed heat exchanger tube outwardly to cause the tube to engage and contact with the fin surfaces to capture and secure the individual fins to the expanded tube to complete the heat exchanger assembly.

Additionally, it is within the scope of the present invention that the method of making heat exchanger assemblies includes individual folded fin

sets or arrays having openings therein that are specifically positioned on the elongated collapsed heat exchanger tube. The specifically mounted fin sets and corresponding tube are then bent around the mandrel to provide a serpentine-type like heat exchanger assembly. The formed elongated serpentine-type collapsed heat exchanger tube is then re-inflated to engage and be secured to the individual fin surfaces of the fin set array to complete the heat exchanger assembly. This method permits the heat exchanger designer increased flexibility in the design of the tube layout as well as the placement of the array within the finished coil assembly.

Also, the method of making heat exchanger assemblies includes the use of single or multiple heat transfer fin sets or arrays, that are accordion-like sheets of heat radiating material folded back and forth upon itself. The junction between the folded sheets of the array material may include slots or notches which cooperate to be engaged by a single length of collapsed heat exchanger tube that is spirally wrapped around the array to engage the slots of notches to form the heat exchanger assembly. The heat exchanger assembly is completed by re-inflating the collapsed tube to secure the tube to the array or arrays, to provide a heat exchanger assembly, substantially in accordance with the teachings of United States Patent No. 4,778,004, assigned to the assignée of the present invention, which teaching is incorporated herein.

Although the present invention has been disclosed as utilizing a multiple diameter forming mandrel to provide the spirally wrapped serpentine-type heat exchange tube, the forming mandrel may also be of a constant diameter to provide the wrapped heat exchange tube. Moreover, the forming mandrel may have a configuration that is rectangular in form of multiple-sided in form to permit the manufacture of various geometric coil configurations, as desired.

THE CLAIMS:

1. For use in the heat exchanger assembly of a side entry type having at least one fin set, an elongated heat exchanger tube having at least two collapsed sidewall portions extending substantially the length of said tube, the elongated heat exchanger tube being adapted to being bent to form a return bend portion and then being expanded to engage and secure the tube in a passage in a fin set.

2. The tube of claim 1 wherein said elongated heat exchanger tube has a wall thickness of between about 0.010 to 0.030 inches.

3. The tube of claim 1 wherein the one or more collapsed sidewall portions comprises an elongated recess extending substantially the length of said heat exchanger tube.

4. The tube of claim 1 wherein the one or more collapsed sidewall portions comprise a pair of opposed elongated recesses extending substantially the length of said heat exchanger tube.

5. An elongated heat exchanger tube comprising an elongated tube having first and second ends and an internal passageway extending between the first and second ends, said elongated tube being formed from a sidewall;

at least two collapsed portions of the sidewall of the elongated heat exchanger tube extending substantially along a length of the elongated tube, the two collapsed portions contacting each other within the passageway of the tube; and

the at least two collapsed portions of the sidewall of the elongated tube being expandable radially outward to push the at least two collapsed sidewall portions outward so that they no longer contact each other and the passageway within the tube is opened.

6. The tube of claim 5 wherein the at least two collapsed portions define at least two elongated recesses extending substantially along a length of the elongated tube.

7. The tube of claim 5 wherein the at least two collapsed portions of the side wall of the elongated tube are each from a portion of the sidewall that is bent into a generally U-shaped configuration having two sides and a bottom, and the bottoms of the U-shaped configurations of the at least two collapsed portions contact each other.

ABSTRACT OF THE INVENTION

A heat exchanger assembly of the side-entry type includes at least one fin set and an elongated heat exchanger tube having one or more collapsed sidewall portions extending substantially the length of the tube. The folded tube is first bent to form the return bend portions and then is expanded to engage the fin set. Methods of making the elongated heat exchanger tube having one or more collapsed sidewall portion methods of making heat exchanger assemblies are also disclosed.

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December 31, 2003

William F. Prendergast
Brinks Hofer Gilson & Lione
P. O. Box 10395
Chicago, IL 60610

In re application of:
Paulman et al DECISION ON PETITION
Serial No.: 09/918,922
Filed: July 30, 2001
For: FOLDED, BENT AND RE-EXPANDED HEAT EX CHANGER TUBES AND ASSEMBLIES

This is a decision on the petition received on January 21, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice of Missing Parts of Application mailed August 22, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned October 23, 2001. The notice of abandonment was mailed on November 18, 2002.

On January 21, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice of Missing Parts mailed on August 22, 2001.

The substitute specification received on November 21, 2002, will be used to correct the filing informalities.

The petition is hereby Granted.

The application has been completed for release to Technology Center 3743.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day

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OFFICE OF PETITIONS

In re Application of
Donald R. Primrose, et al.
Application No. 09/918,931
Filed: July 30, 2001
Attorney Docket No. 51040.P022

ON PETITION

This is a decision in response to the petition, filed July 3, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 27, 2005. A Notice of Abandonment was mailed on May 2, 2006. On July 3, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2616 for consideration of the amendment filed July 3, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Mail Date: 04/21/2010

Applicant	: Donald R. Primrose	: DECISION ON REQUEST FOR
Patent Number	: 7646782	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/918,931	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2569** 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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Mail Date: 05/18/2010

Applicant : Donald R. Primrose
Patent Number : 7646782
Issue Date : 01/12/2010
Application No : 09/918,931
Filed : 07/30/2001

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **2609** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OFFICE OF PETITIONS

In re Application of	:	
Scott Edwin Black et al	:	
Application No. 09/918,945	:	DECISION GRANTING PETITION
Filed: July 31, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 38190/236031	:	

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

The petition is **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 Restriction Requirement mailed September 19, 2005, 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 3623 to consider the reply received October 26, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Mail Date: 04/21/2010

Applicant	: Scott Edwin Black	: DECISION ON REQUEST FOR
Patent Number	: 7580847	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/918,945	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2521** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Takayasu, et. al.	:	
Application No. 09/918,986	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. JP920000214US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

The Associate Power of Attorney and Change of Correspondence Address filed July 28, 2005 has been made of record.

The application file is being referred to Technology Center Art Unit 2863.

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.: X

DATE : October 04,2007

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/919,006 Patent No.: 6897377 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

Dean A. Butcher
SPE

2831
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. 12

MATHEWS, COLLINS, SHEPHERD & GOULD, P.A.
SUITE 306
100 THANET CIRCLE
PRINCETON, NJ 08540

COPY MAILED

DEC 0 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Hirao, et al.	:	
Application No. 09/919,024	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. 4296-1447	:	

This is a decision on the petition under 37 CFR 1.137(a), filed November 13, 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(a)."

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 9, 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 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). Petitioner has filed a Request for Continued Examination (RCE) with the instant petition to revive.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent,

abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) The petition fee as set forth in § 1.17(l);

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

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

This petition lacks item (3)above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

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).

Petitioner asserts that the delay was caused by failure to receive the advisory action until after the statutory period to reply had ended. Petitioner submitted a response to the final Office action in the form of a "Request For Reconsideration" on July 7, 2003. In response, the Office mailed an advisory action on October 22, 2003.

Petitioner may not rely upon non-receipt of an advisory action to establish that the delay was unavoidable. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal. A delay is not "unavoidable" when an applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See MPEP 711.03(c)(III)(C)(2).

Accordingly, 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).

Please note, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $950.00 extension of time submitted with the petition on November 13, 2003 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account no. 13-2165.

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

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

By FAX: (703) 746-3258
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 15

MATHEWS, COLLINS, SHEPHERD & GOULD, P.A.
SUITE 306
100 THANET CIRCLE
PRINCETON, NJ 08540

COPY MAILED

JAN 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Hirao, et al.	:	
Application No. 09/919,024	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. 4296-1447	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 9, 2003. Accordingly, this application became abandoned on July 10, 2003.

The file is being forwarded to 1600 for review of the RCE, filed November 13, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Thomas D. Paul
Fulbright & Jaworski, LLP
1301 McKinney, Suite 5100
Houston, TX 77010-3095

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AUG 0 2 2002

OFFICE OF PETITIONS

In re Application of :
Neill B. Walsdorf, Sr., et al. :
Application No. 09/919,025 : ON PETITION
Filed: July 31, 2001 :
Attorney Docket No. HO-P02490US0 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2002 and supplemented on July 30, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 15, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 16, 2002.

The Revocation and Power of Attorney has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Sherry Brinkley at (703) 305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1616 for further processing.

Retta Williams

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

for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephen B. Ackerman
20 McIntosh Drive
Poughkeepsie, NY 12603

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AUG 0 9 2002

OFFICE OF PETITIONS

In re Application of
Chun Hong Peng et al.
Application No. 09/919,036
Filed: June 4, 2001
Attorney Docket No. PR89-036

: DECISION DISMISSING PETITION

This is a decision on the petition filed June 4, 2001, requesting that a nonprovisional application of Chun Hong Peng et al. entitled "An Intelligent Wet Etching Tool as a Function of Chemical Concentration, Temperature and Film Loss" (attorney docket No. PR89-036) be accorded a filing date of September 21, 2000. A copy of the application was sent by facsimile on April 24, 2001 and was assigned application No. 09/919,036.

The petition filed June 4, 2001 is **dismissed**.

Petitioners allege that the application was deposited with three other applications in a US Postal Service Priority Envelope on September 19, 2000. Petitioners further allege that Filing Receipts and returned Postcards with Serial Numbers and Filing Dates of September 21, 2000 were received for three out of four cases but not for the application referenced above. As proof, petitioners have submitted a copy of their office Mail-Log Book allegedly showing that the four applications were mailed on September 19, 2000.

The best evidence of what was actually received in the Office is applicants' postcard receipt. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

The evidence presented has been carefully considered, but is not convincing of petitioners' entitlement to a filing date of September 21, 2000. While petitioners allege that the application was mailed to the USPTO in the same envelope as three other applications received September 21, 2000, petitioners have not presented a postcard receipt showing actual receipt of the application in the USPTO. Petitioners allege that the postcard receipt was never returned to petitioners. The USPTO has no record that the application papers were received on September 21, 2000. It may be that the application papers for this application were intended to be placed in the envelope with the three other applications but as a result of inadvertent error unknown to the petitioners, the application papers were omitted or placed in a different envelope for mailing and

that the original application papers were never mailed or were lost in the mail.

Petitioners have failed to provide convincing evidence that the application referenced above was contained in the Priority Envelope on September 19, 2000 and that the application was received by the Office and subsequently lost or misplaced. Therefore, the petition to accord a filing date of September 21, 2000 has been dismissed.

A review of the papers in application No. 09/919,036 reveals that the copy of the application papers were submitted by facsimile on April 24, 2001. The application papers submitted by facsimile on April 24, 2001 were erroneously accorded an application number and a filing date of September 21, 2000. Since the application papers submitted on April 24, 2001 were submitted by facsimile, the application papers are not entitled to a filing date. See 37 CFR 1.6(d) and 1.8(a)(2)(i)(A).

The application is entitled to a filing date of June 4, 2001, which is the date the Office received complete application papers.

The petition and application papers received June 4, 2001 have been placed in application No. 09/919,036. The application papers filed June 4, 2001 will be used in the processing and examination of the application. The duplicate copy of the application papers submitted by facsimile on April 24, 2001 will be retained in application No. 09/919,036, but will not be entered or used during the processing and examination of the application.

After mailing of this decision, the $130.00 petition fee will be charged to counsel's deposit account No. 19-0033 as authorized in the petition. Thereafter, the application will be forwarded to the Office of Initial Patent Examination for further processing to correct the filing date of the application to June 4, 2001 and to reprocess the application with the application papers filed on June 4, 2001.

Telephone inquiries specific to this matter should be directed to Darnell M. Jayne at (703) 305-3310.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 10-02

Paper No. 4

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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OCT 0 4 2002

OFFICE OF PETITIONS

In re Application of	:
Ramasubramanian et al.	: DECISION DISMISSING
Application No. 09/919,050	: PETITION
Filed: 31 July, 2001	:
Attorney Docket No. CR00257M	:

This is a decision on the petition under 37 CFR 1.182 on 31 July, 2001. The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **dismissed**.

Petitioners state that a provisional application was filed on 29 December, 2000, to which the above-identified nonprovisional application is to claim priority. Petitioners state that no filing receipt was received for the provisional application, and request that the Office accept a claim of priority in the above-identified nonprovisional application to the prior-filed provisional application. Petitioners state that the provisional application was deposited by Express Mail on 29 December, 2000, and have included a copy of the provisional application cover sheet as well as the Express Mail mailing label.

A review of Office records reveals that no provisional application with the invention title described on the Provisional Application Cover Sheet appears to have ever been received in the USPTO and assigned an application number.

Petitioners should note that 37 CFR 1.10(e) provides that:

> Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the

correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petitioners should consider filing a petition under 37 CFR 1.10(e) to accord the provisional application a filing date of 29 December, 2000.

As the present petition under 37 CFR 1.182 is inappropriate, the petition will be dismissed. Counsel's deposit account, No. 13-4772, will be charged the petition fee of $130.00.

The application file is being forwarded to Technology Center 2600 for examination in due course.

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

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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JJGJr.:10-02
Paper 6

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OFFICE OF PETITIONS

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

In re Application of	:	
Ramassubramanian, et al.	:	DECISION ON PETITION
Application No. 09/919,050	:	
Filed: 31 July, 2001	:	
Attorney Docket No.: CR00257M	:	

This is a decision on the petition filed via FAX on 10 October, 2002, to accord a filing date of 29 December, 2000, under 37 C.F.R. §1.10[1] to a provisional application Petitioner alleges was filed at that time as a predicate to the instant application.

The petition is **DISMISSED**.

---

[1] The regulations at 37 C.F.R. §1.10 provide in pertinent part:
§ 1.10 Filing of papers and fees by "Express Mail."

* * *

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Your request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.10."

There will be no further reconsideration thereafter.

BACKGROUND AND ANALYSIS

The record reflects that:

- Petitioner alleges that a provisional application (predicate to the instant application) was filed via Express Mail (US Postal Service (USPS) Express Mail No. EF263209519US) on 29 December, 2000;

- although it appears that application may have been received by the Office, it does not appear to have been processed;

- thereafter, Petitioner received neither his receipt card alleged to have been filed with provisional application, nor a filing receipt, and Petitioner filed (also via Express Mail) on 31 July, 2001, a petition under 37 C.F.R. §1.182, alleging timely filing of the petition and seeking a filing date of 29 December, 2000, which petition was dismissed as inappropriate;

- it is now noted is that a statement by Karen Kass (Ms. Kass), which Petitioner indicated was attached (to satisfy the showing required) was in fact not attached or otherwise included with the filing;

- a telephone message was left with Petitioner's office (on Sunday, October, 27, 2002) requesting a copy of the statement to be transmitted via FAX to the Office.

Therefore, at this writing the showing required under 37 C.F.R. §1.10 is not yet complete.

The renewed petition, if any, must be accompanied corroborating evidence sufficient to satisfy Petitioner's burden of proof (i.e., at least the statement of Ms. Kass).

The instant petition must be and hereby is **dismissed**.

Any future correspondence with regard to this matter under 37 C.F.R. §1.10 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 4
Room 3-C23
2201 South Clark Place
Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ryan, Mason & Lewis, LLP
1300 Post Road
Suite 205
Fairfield, CT 06824

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of
DIEPSTRATEN et al.
Application No. 09/919,051
Filed: July 31, 2001
Attorney Docket No. 22-12-2-2

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed November 02, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign European Patent Application No. 00306496, filed July 31, 2000.

The petition is **GRANTED**.

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

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on July 31, 2001, which is after November 29, 2000 and within 12 months of July 31, 2000 (the filing date of the foreign application to which benefit is now being claimed). On 02 November 2005, an application data sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

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

This matter is being referred to Technology Center AU 2666 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Applicants supplied an associate power of attorney on November 02, 2005, signed by Mark A. Kurisko, appointing several new attorneys and changing the correspondence address. As Mr. Kurisko is appointed counsel, he can change the correspondence address and the change has been entered. However, effective June 25, 2004, powers of attorney must be signed by either an applicant or the assignee of the entire interest of the applicant. 37 CFR 1.32. As such, the associate power of attorney is ineffective.

Any inquiries directly pertaining to this matter may be directed to Erin Thomson at (571) 272-3292.

Boris Milef

Boris Milef
Legal Examiner
Office of PCT Legal Administration and Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/919,051	07/31/2001	2616	840	22-12-2-2	5	6	2

CONFIRMATION NO. 4248

CORRECTED FILING RECEIPT

OC000000018869458

Ryan, Mason & Lewis, LLP
1300 Post Road
Suite 205
Fairfield, CT 06824

Date Mailed: 05/19/2006

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)

Wilhelmus Diepstraten, Noord-Brabant, NETHERLANDS;
Adriaan Kamerman, Utrecht, NETHERLANDS;
Kai Roland Kriedte, Duurstede, NETHERLANDS;
D.J. Richard Van Nee, De Meern, NETHERLANDS;

Power of Attorney:

Lester Birnbaum--25830
David Smith--30592
Scott McLellan--30776
Richard Botos--32016
Ferdinand Romano--32752
Anthony Grillo--36535
Mark Kurisko--38944
Scott Rittman--39010
John Veschi--39058

Domestic Priority data as claimed by applicant

Foreign Applications	Acceptable Request to Retrieve Priority Application Received?
EUROPEAN PATENT OFFICE (EPO) 00306496 07/31/2000	NO

If Required, Foreign Filing License Granted: 09/07/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/919,051

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Wireless LAN with enhanced carrier sensing

Preliminary Class

370

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

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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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Nixon Peabody LLP
P.O. Box 60610
Palo Alto, CA 94306

Mail Date: 04/21/2010

Applicant	: Richard Wodzianek	: DECISION ON REQUEST FOR
Patent Number	: 7600013	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/919,069	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **960** 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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MAIL Paper No. 3

DEC 01 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Law Office of John Schipper
Suite 808
111 N Market Street
San Jose CA 95113

In re Application of	:	
Jae SHIM, *et al.*	:	
Application No. 09/919,071	:	DECISION ON REQUEST TO
Filed: July 30, 2001	:	WITHDRAW FROM RECORD
For: INK DISPLAY FOR MULTI-STROKE	:	
HAND ENTERED CHARACTERS	:	

This is a decision on the request to withdraw as attorney/agent of record filed on October 6, 2003.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is* ***granted.*** John F. Schipper is withdrawn from the record.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Jae Shim
5944 Killarney Circle
San Jose, CA 95138

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of :
Fein :
Application No. 09/919,102 : ON PETITION
Filed: July 31, 2001 :
Attorney Docket No. HOFE-02 :
For: SELECTIVE ENZYME TREATMENT
OF SKIN CONDITIONS

This is a decision on the petition, filed May 31, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a proper reply to the September 28, 2006 non-final Office action, which set an extendable three (3) month period for reply. Applicant submitted a one month extension of time and an affidavit on January 25, 2007. This application became abandoned on January 29, 2007. A Notice of Abandonment was mailed on May 18, 2007.

Applicant has submitted an amendment in reply to the September 28, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 28, 2006 non-final Office action, and the $750.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 1651 for consideration of the amendment filed on May 30, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY, SUITE 100
MINNEAPOLIS MN 55344-7704

In re Application of
Hoenlein, et al. : DECISION ON PETITION
Application No. 09/919,115 :
Filing Date: 1 August, 2001
Attorney Docket No. 3035.17-US-W1 :

This is a decision on the renewed petition filed on 30 August, 2004, 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) **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 14 November, 2003, with reply due, absent extension of time on or before Tuesday, 17 February, 2004;

- on 154 May, 2004, Petitioner filed a request and fee for a three- (3-) month extension of time, and an after-final amendment, which the Examiner found in a 18 June, 2004, Advisory Action not to be proper in that it failed to place the application in condition for

allowance;[1]

- the instant application went abandoned after midnight 14 May, 2004;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- with the instant petition (and fee), Petitioner submitted the reply (a request for continued examination (RCE), fee, and a submission under 37 C.F.R. §1.114), and made 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).[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]

---

[1] The proper response to the final Office action (see: MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

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

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

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

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

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner now has satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to Technology Center 1700 for further processing.

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

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

---

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

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

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FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
N. Lee Rhodes et al	:	
Application No. 09/919,149	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. 10013112-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained.

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

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

This application is being referred to Technology Center AU 2153 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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666 FIFTH AVENUE
NEW YORK, NY 10103

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OFFICE OF PETITIONS

In re Application of :
Jean-Christophe Renauld et al :
Application No. 09/919,162 : ON PETITION
Filed: July 31, 2001 :
Attorney Docket No. LUD 5684.2 CIP (10106926) :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 23, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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 (571) 272-3220.

This matter is being referred to Technology Center AU 1646.

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

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Paper No.

WYETH/FINNEGAN HENDERSON, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Patent No. 7,268,223	:	
Renauld et al.	:	LETTER REGARDING
Issue Date: September 11, 2007	:	PATENT TERM ADJUSTMENT
Application No. 09/919,162	:	and
Filed: July 31, 2001	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 8702.0198-00	:	CERTIFICATE OF CORRECTION

This is in response to the NOTICE OF POSSIBLE USPTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR CLARIFICATION OF CALCULATION filed November 8, 2007. Pursuant to patentee's duty of good faith and candor, patentee discloses that the patent term adjustment set forth in the Issue Notification (and on the patent) of four hundred forty-four (444) days should be corrected to forty-three (43) days.

The request for correction 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 three hundred twenty-nine **(329)** days.

On September 11, 2007, the above-identified application matured into U.S. Patent No. 7,268,223, with a revised Patent Term Adjustment of 444 days. Patentees state no basis for their disclosure that the revised Patent Term Adjustment should be 43 days.

Nonetheless, a review of the application file reveals that the patent term adjustment of 444 days is incorrect. A review of

the application file reveals that the period of adjustment of 197 days entered for Office delay and the period of reduction of 166 days entered for Applicant delay are incorrect.

First, the Office's mailing of the notice of allowance on May 7, 2007 did not constitute examination delay, and thus, did not warrant entry of a period of adjustment of 197 days. 37 CFR 1.702(a)(2) provides that grounds for adjustment include Office failure to:

> Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

The notice of allowance was mailed in response to, and within four months of, applicant's responses filed March 15, 2007 and April 10, 2007. Thus, there were no grounds for adjustment pursuant to 37 CFR 1.702(a)(2).

However, there was Office delay in responding to applicant's response filed June 22, 2006. The Office did not mail the Office communication in response until February 15, 2007, four months and 116 days later. Accordingly, the period of adjustment of 197 days is being removed and a period of adjustment of 116 days is being entered.

Second, applicant's filing of a response on June 6, 2005 was incorrectly calculated as an applicant delay within the meaning of 37 CFR 1.704(b) for applicant taking in excess of three months to respond to the Office action mailed September 22, 2004. However, under this circumstance, this is not the proper basis for calculating applicant delay. The response was received outside of the statutory period for reply along with a petition to revive. The application had become abandoned. Thus, applicant failed to engage in reasonable efforts to conclude examination of the application by allowing the application to become abandoned for failure to prosecute. Pursuant to 37 CFR 1.704(c), circumstances that constitute a failure to engage include:

> (3) Abandonment of the application or late payment of the issue fee, 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 date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

The period of reduction is properly calculated pursuant to 37 CFR 1.704(c)(3). The instant application became abandoned effective December 23, 2004 for failure to file a response to the non-final Office action mailed September 22, 2004. It is noted that the decision on petition mailed July 11, 2005 incorrectly states that the date of abandonment is March 23, 2005. This date of abandonment is incorrect because no extension of time for reply was filed. As such, the application became abandoned at the end of the shortened statutory period for reply on December 23, 2004. The period of reduction is 200 days, counting the number of days beginning on December 23, 2004, the date of abandonment, and ending on July 11, 2005 (the earlier date) the date of mailing of a decision reviving the application. Accordingly, the period of reduction of 166 days is being removed and a period of reduction of 200 days for applicant delay is being entered.

In view thereof, the patent should have issued with a revised patent term adjustment of 329 days.

As this letter was submitted as an advisement to the Office of errors in Patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office. A review of the application history did not reveal a basis for reducing the patent term adjustment to 43 days. Patentee is under a continuing duty of candor to advise the Office of any specific reduction or unwarranted adjustment in this application.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred twenty-nine (329) days.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,268,223 B2

DATED : **September 11, 2007** **DRAFT**

INVENTOR(S) : Renauld 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 444 days

Delete the phrase "by 444 days" and insert – by 329 days--

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Paper No. 12

NICKOLAS E. WESTMAN
WESTMAN, CHAMPLIN & KELLY, P.A.
SUITE 1600 – INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

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JUL 22 2003

OFFICE OF PETITIONS

In re Application of :
Klaus Draenert :
Application No. 09/919,179 : ON PETITION
Filed: July 30, 2001 :
Attorney Docket No. D06.12-0007 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 30, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 2, 2002.

The Revocation and Power of Attorney and Change of Correspondence Address has been accepted and recorded.

The statement claiming small entity status in accordance with 37 CFR 1.27 embodied in the petition under 1.137(b) has been made of record and small entity status has been accorded.

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

The application file is being forwarded to Technology Center 3700, Art Unit 3732 for further processing.

Retta Williams

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

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KATTEN MUCHIN ROSENMAN LLP
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NEW YORK NY 10022-2585

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OFFICE OF PETITIONS

In re Application of
Hideyuki Aoki et al.
Application No. 09/919,204
Filed: July 31, 2001
Attorney Docket No: FUJH18.876

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed August 14, 2006, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on March 7, 2006, for failure to file a timely response to the non-Final Office Action mailed December 6, 2005, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed August 9, 2006. Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed December 6, 2005 would have been filed, had it been received. To show that the Notice mailed December 6, 2005 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed December 6, 2005, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2154 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

Telephone inquiries concerning this matter 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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OFFICE OF PETITIONS

In re Application of	:	
Schall et al.	:	
Application No. 09/919,224	:	DECISION GRANTING PETITION
Filed: 30 July, 2001	:	
Attys. Docket No. 019934-001710US	:	

This is a decision on the petition filed on 26 February, 2002, which is treated as a petition requesting that the above-identified application be accorded a filing date of 30 July, 2001, with 14 sheets of drawings as a part of the original disclosure.

On 30 July, 2001, the application was filed.

On 17 September, 2001, Initial Patent Examination Division mailed a "Notice of Incomplete Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, on 26 February, 2002, *inter alia*, the present petition, a $130.00 petition fee, a four (4) month time extension, and 14 sheets of drawings were filed. Petitioner argues that 14 sheets of drawings were filed with the other application papers on 30 July, 2001, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioner's postcard receipt which shows an Office stamp of 30 July, 2001, and the above-identified application number, and acknowledges receipt of, *inter alia*, 14 sheets of drawings, was supplied. Petitioner requests that the application, including 14 sheets of drawings, be accorded a filing date of 30 July, 2001.

Upon review of the record, no sheets of drawings deposited on 30 July, 2001, have been located among the application papers contained in the official file. However, the evidence is convincing that the application papers deposited on 30 July, 2001, included 14 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including 14 sheets of drawings, was complete on filing and entitled to a filing date of 30 July, 2001.

In view of the above, the petition is granted. The 14 sheets of drawings submitted with the petition will be used for processing and examination purposes. The petition fee is unnecessary and will be credited to counsel's deposit account, No. 20-1430.

The "Notice" mailed on 17 September, 2001, was sent in error and is hereby withdrawn.

The application is being returned to Initial Patent Examination Division for processing with a filing date of 30 July, 2001, using the application papers filed on that date, and the 14 sheets of drawings supplied on 26 February, 2002, and for an indication on the bib-data sheet that 14 sheets of drawings were present on filing.

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

Beverly M. Flanagan
Supervisory Petitions 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

March 2005

Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

MAR 28 2005

In re Application of:
William J. Ossmann
Serial No.: 09/919,232
Filed: July 31, 2001
Attorney Docket No.: US010394

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on November 17, 2003. There is no fee for this petition.

The petition is **GRANTED**.

A final Office action was mailed on August 21, 2002. An after-final amendment was filed on October 30, 2002. An advisory action was mailed on November 7, 2002 indicating that the after-final amendment failed to place the application in condition for allowance. A Notice of Abandonment was mailed on October 27, 2003. Although the Notice of Abandonment indicates that the application was abandoned in view of applicant's failure to timely file a proper reply to the Office letter mailed on November 7, 2002, it was actually held abandoned for failure to timely file a proper reply to the final Office action mailed on August 21, 2002.

A proper reply to a final rejection under 37 C.F.R. § 1.113 may only be either (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114.

Petitioner asserts that a Request for Continued Examination (RCE) and Petition for Extension of Time (EOT) were timely filed in the United States Patent and Trademark Office (USPTO) on January 14, 2003. To support this assertion, petitioner has submitted copies of the RCE and EOT and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the RCE and EOT by the USPTO on January 14, 2003.

A review of the application file record reveals that the RCE and EOT having been acknowledged as being received in the USPTO on January 14, 2003 are not of record in the application file and cannot be located. On the other hand, Office records indicate that a 2 month extension of time fee was charged to applicant's Deposit Account on January 15, 2003

in connection with a paper filed on January 14, 2003. In any case, M.P.E.P. § 503 states that a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. Accordingly, it is concluded that the RCE and EOT were timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed October 27, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The RCE filed with the petition on November 17, 2003 will be processed by the Technology Center 2800 support staff and the examiner will be prepare an Office action considering the after-final amendment/reply filed on October 30, 2002 as requested in the RCE.

Any inquiries regarding this decision should be directed to Special Programs Examiner Edward Westin at (571) 272-1638.

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

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Paper No. 8

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

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AUG 0 3 2004
OFFICE OF PETITIONS

In re Application of	:	
Salgo et al.	:	
Application No. 09/919,237	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. US010427 A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) 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. A Notice of Abandonment was mailed on August 26, 2002.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to the undersigned at (571) 272-3282.

Liana Chase

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

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LENOVO (US) IP LAW
MAIL STOP ZHHA/B675/PO BOX 12195
3039 CORNWALLIS ROAD
RTP NC 27709-2195

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APR 26 2007

OFFICE OF PETITIONS

In re Application of	:
Daryl Carvis Cromer et al	:
Application No. 09/919,240	: DECISION GRANTING PETITION
Filed: July 31, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. RPS9 2000 0079	:

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 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 RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of February 2, 2006, is accepted as having been unintentionally delayed.

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

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

This matter is being referred to Technology Center AU 2137.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

RONALD V. DAVIDGE
9900 STIRLING ROAD, SITE 219
COOPER CITY, FL 33024

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OFFICE OF PETITIONS

In re Patent No. 6,953,453 :
Issue Date: October 11, 2005 :
Application No. 09/919,254 : NOTICE UNDER 37 CFR. 1.28(c)
Filed: July 31, 2001 :
Attorney Docket No. **ANGIO P-15 - 500622.2000** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 01, 1998, the court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

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

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

cc: **KENDAL M. SHEETS**
CPA NORTH AMERICA, LLC
225 REINEKERS LANE, SUITE 400
ALEXANDRIA, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/20/09

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 09919260 Patent No.: 7023581 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

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

Thank You For Your Assistance

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

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

Comments: The requested changes/corrections are approved because the changes/corrections are directed to matters of form not affecting the scope of the invention and no new matter has been introduced. /Charlotte M. Baker/ Examiner, Art Unit 2625

/Edward L. Coles/ Supervisory Patent Examiner, Art Unit 2625 — 04/22/2009

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)
6827301	2004-12-07	09919277	2001-07-31	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/steve m. kassuba/	Date (YYYY-MM-DD)	2009-05-26
Name	Steven M. Kassuba		

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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P.O. Box 1450
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In re Patent No. 6827301
Issue Date: December 7,2004
Application No. 09919277
Filed: July 31,2001
Attorney Docket No. 00-012

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

This is a decision on the electronic petition, filed May 26,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 26,2009 . 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
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

DUFT SETTER OLLILA & BORNSEN LLC
2060 BROADWAY
SUITE 300
BOULDER CO 80302

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OFFICE OF PETITIONS

In re Application of :
Duane E. Galbi, et al. :
Application No. 09/919,283 :
Filed : July 31, 2001 :
Attorney Docket No. 00CXT0725N-1 :

DECISION DISMISSING 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 §§ 1.78(a)(3) and 1.78(a)(6), filed March 17, 2004, 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 applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. 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.

A reference to add the prior-filed applications in the paragraph on page one entitled "related applications:" of the specification has been included in an amendment filed on May 17, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) 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] deleting the improper incorporation by reference statement for provisional application No. 60/149,379 is required.

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

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

---

[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

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

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

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

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Paper No. 11

DUFT SETTER OLLILA & BORNSEN, LLC
2060 BROADWAY
SUITE 300
BOULDER, CO 80302

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OFFICE OF PETITIONS

In re Application of	:
Duane E. Galbi, et al.	: DECISION ON PETITIONS
Application No. 09/919,283	: UNDER 37 CFR 1.78(a)(3) AND
Filed: July 31, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 00CXT0725N-1	:

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 21, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on July 31, 2001 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to

the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

Additionally, intermediate nonprovisional application No. 09/639,915 was filed within twelve months of provisional Application No. 60/149,376, which was filed on August 17, 1999, for which priority is claimed. Based on the names of the inventors and title of the invention it appears that the provisional application number cited in the present amendment should be 60/149,37**6**, not 60/149,37**9** as identified. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365©) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365©) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 2666 for appropriate action on the amendment submitted June 21, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365©) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed

applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

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

Karen O. Creasy
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.: X

DATE : **March 17, 2008**

TO SPE OF : ART UNIT **2619**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/919283** Patent No.: **7099328 B2**

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The changes suggested by Applicant are fine.

/Wing F. Chan/ AU

2619

SPE **Art Unit**

#4
11-14-01

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

In re Application of
Zahner and Sharda
Serial No.: 09/919,298
Filed: July 31, 2001
Attorney Docket No.: 16850-8184

This is in response to "PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102 (C)" filed by applicant on July 31, 2001.

Applicant's Petition was filed under 37 CFR 1.102 (C). 37CFR 1.102 (C) states:

"A petition to make an applicaiton special may be filed without a fee if the basis for the petition is the applicant's age or health or that the invention will materailly enhance the quality of the environment or materially contribute to the development or conservation of energy resources,"

It is clear that applicant's petition is filed on grounds other then those referred above. Therefore, the petition is treated as filed under 37 CFR 1.102 (d) and a petition fee of $130 has been charged.

Applicant have established their status as a samll entity. Applicant states that the above mentioned application is the major asset of the COMPANY, and that the development of the technology described in the above mentioned application will be significantly impaired if the examination of the patent application is delayed.

Based on the statements and evidence provided the Petiton is **Granted**.

Should there be any questions regarding this communication, please contact Cecilia Tsang by mail addressed to Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 308-3890.

Cecilia Tsang for
John Doll
Director, Technology Center 1600

Joseph E. Zahner
Howell & Haferkamp, L. C.
7733 Forsyth Boulevard, Suite 1400
St. Louis, Missouri 63105

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

Garlick & Harrison
PO Box 160727
Austin, TX 78716-0727

COPY MAILED

FEB 1 4 2003

OFFICE OF PETITIONS

In re Application of
Rowe et al.
Application No. 09/919,359
Filed: July 31, 2001
Attorney Docket No. CYTW 003

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts (Notice) mailed September 10, 2001, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 11, 2001.

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

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

The application file is being forwarded to Technology Center AU 2185 for further processing.

Latrice Bond

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

cc: Garlick Harrison & Markison
PO Box 670007
Dallas, TX 75367

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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

Applicant	: Vadim Gutnik	: DECISION ON REQUEST FOR
Patent Number	: 7571359	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/919,372	: OF WYETH
Filed	: 07/31/2001	:
		:

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

MAR 23 2007

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

JOSEPH LUCCI, ESQ.
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA PA 19103

In re Patent No. 6,919,373 GUPTA et al	:	
Issue Date: July 19, 2005	:	**DECISION GRANTING**
Appl No.: 09/919,373	:	**PETITION**
Filed: February 19, 1999	:	*37 CFR 1.324*
For: Correction of Inventorship	:	

This is a decision on the petition filed February 28, 2007, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/06/06

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/919404** Patent No **6990332**

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2614

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. 5

James P. Hao
WAGNER, MURABITO & HAO LLP
Two North Market Street, Third Floor
San Jose, CA 95113

MAILED

JUN 0 2 2004

Technology Center 2100

In re Application of:
Bin Lu, et al.
Application No. 09/919,412
Filed: July 30, 2001
For: METHOD AND SYSTEM FOR E-MAIL INITIATION OF PEER-TO-PEER MEDIA DELIVERY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 23, 2003.

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

The request filed May 23, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

Because no request was made for a change in correspondence address, all future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

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

cc: ENREACH TECHNOLOGY, INC.
2130 Gold Street, Suite 200
San Jose, CA 95002

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 5

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

MAILED

APR 11 2002

Technology Center 2100

In re Application of : D. Lawrence et al.
Application No. 09/919,413
Filed: July 31, 2001
For: ONLINE TRANSACTION RISK MANAGEMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed December 7, 2001. In light of the content of the petition, it will be treated first in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, then M.P.E.P. §708.02(VIII) Accelerated Examination.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is directed to managing risk related to online transactions which does not directly relate to countering violent acts or acts dangerous to human life intended to intimidate a population or influence the policy or conduct of a government. While applicant indicates that the invention could be related to national security, this does not persuasively establish that the invention represents an advancement in the field of countering terrorism.

Next, M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status...;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it does not clearly comply with (B) and (E) above. With respect to (B), there is no statement that applicant will make an election without traverse if the Office determines that all the claims are not obviously directed to a single invention. With respect to (E), the discussion of the references does not point out how the *claimed* subject matter is patentable over the references. The discussion of the references asserts that the references do not teach a risk quotient reflecting the amounts of legal, regulatory, financial and reputational risk in the transaction. However, claims 1 and 16 for example do not recited the type of risk argued, i.e. legal, regulatory, financial and reputational risk. Further, claim 23 does not specifically call for generating the risk quotient, instead it is received. Finally, claim 22 is a product by process claim directed to a signal indicating risk. The assertions made with regard to the references do not match the scope of the independent claims.

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.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
11682 EL CAMINO REAL SUITE 200
SAN DIEGO, CA 92130

COPY MAILED

NOV 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Jones, Clifton T.	:	
Application No. 09/919,435	:	ON PETITION
Filed: July 30, 2001	:	
Attorney Docket No. 053403-0272574	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 26, 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 the Issue Fee Transmittal, the issue fee and the publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Commissioner for Patents
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PRYOR CASHMAN, LLP
410 PARK AVENUE
NEW YORK, NY 10022

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AUG 01 2008

In re Application of	:	
Joseph C. MURRAY	:	
Application No. 09/919,747	:	DECISION ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. 13737.00002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 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 application became abandoned on May 8, 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). 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.

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b).

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 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional.

Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on May 8, 2005. If possible, that party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As C. Emmett Pugh (Pugh) was the party having the right to reply at the date of abandonment, Pugh should explain, to the extent that his infirmities will permit, why this application became abandoned while it was under his control and what efforts he made to further reply and with whom this matter was discussed. When did Pugh become aware of the abandonment of this application? Although the records does indicate that Pugh suffered a stroke and subsequent incoherence on or around June 2006, the record does not show with substantiating evidence what the intent was with regard to this application prior to the date of abandonment on May 8, 2005.

In the event that Pugh is unable to assist, petitioner should explain why this application became abandoned and what efforts were made to further reply and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), petitioner and whoever else was involved with this application at the time of abandonment. Statements are required from person(s) in the law office and, if possible, the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent

abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

Statements are required from persons in the law office and, if possible, the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. Furthermore, the record shows that Mr. Joseph Murry (Murry) was diagnosed as cancer-free in June 2006 and immediately resumed business endeavors related to his inventions. Also, in June of 2006, Murry became aware of Pugh's infirmities and difficulty in remaining coherent. However, despite this knowledge of Pugh's limitations, Pugh was retained in a position of responsibility over the instant application and was not replaced as counsel until late July 2007. The record does not explain why Murry and ThermaFreeze Products Corporation waited for more than a year after learning of Pugh's limitations to ensure that the instant application was managed properly. An explanation from petitioner as to why the long delay in seeking revival should be excused is required despite this delay, independently of the delay in replying which caused abandonment in the first instance.

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 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.

Any renewed petition may be addressed as follows:

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the Diane Goodwyn at (571) 272-6735.

Christopher Bottoff

for Thurman Page
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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COHEN & GRIGSBY, P.C.
11 STANWIX STREET
15TH FLOOR
PITTSBURGH, PA 15222

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Arthur Ray Crivella et al	:	
Application No. 09/919,468	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. 00-127	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed September 28, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 29, 2004.

A review of the Finance records indicates that an issue fee was erroneously applied to this instant application. Therefore, an additional issue fee of $640.00 is being charged to Deposit Account No. 03-2026, as authorized.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2188.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/7/05

Paper No.: 7

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction on Patent No.: 6788056 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 3-915
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.

Best Available Copy

Virginia Tolbert

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:

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2859
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-25-06

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/919-182 Patent No.: 6983300

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Check Inventor's Info. (2nd Request)

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2193

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCDERMOTT WILL & EMERY LLP
ATTN: INTELLECTUAL PROPERTY DEPTARTMENT
28 STATE STREET
BOSTON MA 02109

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NOV 20 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
John G. Babish et al. :
Application No. 09/919,506 :
Filed: July 31, 2001 :
Attorney Docket No. T8638.NP :

This is a decision on the petition, filed September 6, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

A Final Office Action was mailed November 30, 2004 which set a three month period for response. In response thereof, a Notice of Appeal was filed June 2, 2005, with a three month extension of time request. Instead of filing an Appeal Brief by August 2, 2005, on December 28, 2005, petitioners argue that they filed an RCE in response to the Notice of Appeal with a five month extension of time request. A Notice of Abandonment however was mailed on March 27, 2006, because the RCE and five month extension of time filed December 28, 2005 were not matched with the file.

A search of the application file and the USPTO records reveals that in fact, the Notice of Appeal was filed with a three month extension of time and thus was timely filed and that the RCE, amendment and five month extension of time, all with the proper fees, were timely filed on December 28, 2005 (certificate of mail date). The receipt date for the RCE, amendment and five month extension of time is January 3, 2006 and a copy of the post-card receipt, date stamped by the USPTO on January 3, 2006 is of record with the instant petition.

Accordingly, the response was timely and the Notice of Abandonment mailed March 27, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 1655 for processing the RCE filed December 28, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

Law Offies of Elliot N. Kramsky
Suite 400
5850 Canoga Avenue
Woodland Hills, CA 91367

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MAY 28 2002

OFFICE OF PETITIONS

In re Application of
Stanley F. Wyse et al.
Application No. 09/919,522
Filed: July 31, 2001
Attorney Docket No. L-390

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 6, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. The Notice required submission of formal drawings and a Declaration in compliance with 37 CFR 1.63. A response was submtted on January 14, 2002; however, the response was filed without the required formal drawings. A Notice of Incomplete reply was filed on February 20, 2002 indicating that formal drawings were not submitted. Accordingly, the above-identified application became abandoned on November 7, 2001.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 15 2004

OFFICE OF THE DIRECTOR
TC 3600

Sanjeet K. Dutta
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

In re application of
John J. Dooley et al.
Application No. 09/919,567 :
Filed: July 30, 2001 :
For: METHOD AND SYSTEM FOR MANAGING SUPPLY CHAIN NETWORKS :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 1, 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 is not accepted in the above-identified application because the request lacks reason for the withdrawal under condition B) above.

As to condition B), 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.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/mjz: 3/12/04

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APR - 5 2005

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APR - 5 2005

OFFICE OF THE DIRECTOR
TC 3600

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of :
John J. Dooley et al. :
Application No. 09/919,567 :
Filed: July 30, 2001 :
For: METHOD AND SYSTEM FOR MANAGING :
SUPPLY CHAIN NETWORKS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on August 3, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated March 11, 2004.

☐ USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. 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/vdb: 8/26/04

Randolph A. Reese
Special Programs Examiner

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR - 5 2005

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

APR - 5 2005

OFFICE OF THE DIRECTOR
TC 3600

In re application of
John J. Dooley et al.
Application No. 09/919,567
Filed: July 30,2001
For: METHOD AND SYSTEM FOR MANAGING SUPPLY CHAIN NETWORKS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on June 21, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect mailed July 30, 2004. As a result of this Notice, the power of attorney has been granted to Fenwick & West LLP at the address noted above.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 8/9/04

cc:

Sanjeet K. Dutta
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 7 2005

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DAVIS WRIGHT TREMAINE LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688

In re Application of
Tisn-Qiang Sun et al.
Serial No. : 09/919,585
Filed : 30 July 2001
Attorney Ref No. : 59516-147/PP-16093.002

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.181, filed on 23 November 2004, to request that the Examiner enter the amendment filed on August 19, 2004 and allow claims 1-6, for reasons discussed herein or alternatively request that the Examiner withdraw the finality of the previous Office Action, enter the amendment filed on August 18, 2004, conduct a search of the full pending and elected subject matter, and issue a Notice of Allowance or a non-final action. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on July 30, 2001 with 25 claims.

A requirement for restriction was mailed to applicants on October 1, 2002. In this paper the examiner required the restriction of the 25 claims into six different groups and the examiner additionally required applicants select from one of Groups A, B, C and D drawn to different polypeptides and their encoding polynucleotides (i.e. SEQ ID NOs). On April 1, 2003 applicants elected Group I, claims 1-6, directed to nucleic acids, vectors, host cells and methods of expression of said nucleic acids and group B comprising the nucleotide sequence of SEQ ID NO: 4 and amino acid sequence SEQ ID NO: 6 without traverse. On May 6, 2003 the examiner sent applicants a first action on the merits with rejections under 35 U.S. C. 112 first and second paragraphs and 35 U.S.C. 102(b) on all claims being examined (i.e. claims 1-6). On November 23, 2003 applicants responded with amendments to the claims and argument supporting applicants position. On February 20, 2004 a final rejection was sent to applicants maintaining rejections under 35 U.S. C. 112 first and second paragraphs and 35 U.S.C. 102(b) on all claims being examined (i.e. claims 1-6). On August 19, 2004 applicants submitted an after-final amendment of the claims deleting all reference to SEQ ID NO: 4 from the claims and arguments. On October 13, 2004, an advisory action was sent to applicants stating that the proposed amendment after-final would not be entered because they raise new issues that would require further consideration and/or search. This proposed amendment in addition to raising new issues such as an additional search, further deleted a "second parenthesis" which the examiner stated would lead to a new objection. On November 3, 2004, applicants' representative and the examiner further discussed the basis for the non-entry of applicants proposed amendment as

outlined in the interview summary made of record. On November 23, 2004 applicants filed the petition discussed herein.

DISCUSSION

Applicants petition under 37 C.F.R. 1.181, filed on 23 November 2004, to request that the Examiner enter the amendment filed on August 19, 2004 and allow claims 1-6, for reasons discussed herein or alternatively request that the Examiner withdraw the finality of the previous Office Action, enter the amendment filed on August 18, 2004, conduct a search of the full pending and elected subject matter, and issue a Notice of Allowance or a non-final action.

Applicants request as a first alternative, that the Examiner indicate on the record that claim 1 is allowable over the cited art, as applicants suggest that this conclusion seems implicit in the Examiner's statement in the Office Action dated April 20, 2004 at page 9 in which it was stated:

> "Applicants comments are noted, however, the rejection remains. Applicants attention is drawn to amended claim 1 parts (d), (f), (g), (h), (j) and (k)... all of which remain anticipated by Espinosa et al."

Applicants suggest that if the entirety of claim 1 was anticipated by Espinosa, it seems there would be no need to specify certain parts that <u>remained</u> anticipated following entry of an amendment and thus applicants submit that they were justified in relying on the unlisted parts (claim 1(a), (b), and (c)) as not being anticipated by the cited art.

Applicants' conclusions as to the allowability of certain claims based upon statements made in response to applicants comments regarding previous rejections are unsubstantiated. It is noted that in response to the referred to previous art rejection based on Espinosa et al., applicants amended the claim and merely stated:

"Without acquiescing to the ground of rejection, applicants submit that the claims as amended are not subject to this ground of rejection."

This being the only argument presented beyond applicants amendment of the claims supporting applicants position that "All of the claims remaining in the application are now clearly allowable.", the examiner responded with the above direction to specific portions of the claim which obviously applicants had overlooked. Applicants should read no more into such statements then to direct applicants to portions of the claim which applicants had clearly overlooked.

Applicants are reminded that once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). **Ordinarily, amendments filed after the final action are not entered unless approved by the examiner**. See MPEP § 706.07(f), § 714.13 and § 1207.

Many of the difficulties encountered in the prosecution of patent applications after final rejection may be alleviated if each applicant includes, at the time of filing or no later than the first reply, claims varying from the broadest to which he or she believes he or she is entitled to the most detailed that he or she is willing to accept.

Claims 1-6 were considered to the extent of their patentability and currently remain rejected under 35 U.S.C. 112 first and second paragraph as well as under 35 U.S.C. 102(b) over Espinosa et al. These rejections were first applied in the non-final office action mailed to applicants on 5/6/2003. Applicants had prior to this action a number of opportunities to argue and amend the claims to overcome the current rejections.

DECISION

For these reasons, the Petition under 37 C.F.R. 1.181 to request that the Examiner enter the amendment filed on August 19, 2004 and allow claims 1-6, for reasons discussed herein or alternatively request that the Examiner withdraw the finality of the previous Office Action, enter the amendment filed on August 18, 2004, conduct a search of the full pending and elected subject matter, and issue a Notice of Allowance or a non-final action is **DENIED.**

Any request for consideration of this petition decision must be filed within two (2) months of the mailing date of this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

Bruce Kisliuk

Director, Technology Center 1600.

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Paper No. 8

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OFFICE OF PETITIONS

Wallenstein & Wagner, Ltd.
53rd Floor
311 S. Wacker Drive
Chicago, IL 60606-6630

In re Application of
Seiler, et al.
Application No. 09/919,594
Filed: July 31, 2001
Attorney Docket No.: 5246 P 003
For: METHOD AND SYSTEM FOR INFORMATION COMMUNICATION BETWEEN POTENTIAL POSITIONEES AND POSITIONORS

DECISION GRANTING PETITION UNDER 37 CFR 1.137(b) AND DISMISSING PETITION UNDER 37 CFR 1.47(a) AS MOOT

This is a decision on the petition under 37 CFR 1.47(a), filed February 22, 2002 and supplemented April 8, 2002, and the petition under 37 CFR 1.137(b), filed May 16, 2002 and supplemented August 16, 2002.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The application became abandoned November 6, 2001 for failure to timely file a proper response to the Notice to File Missing Parts of Application ("Notice") mailed September 5, 2001. The Notice set a period of response of two (2) months from the mail date of the Notice. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment.

PETITION UNDER 37 CFR 1.137(b)

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c). The instant petition has been reviewed and found in compliance with the requirements of 37 CFR 1.137(b).

PETITION UNDER 37 CFR 1.47(a)

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Wallenstein & Wagner, Ltd.
53rd Floor
311 S. Wacker Drive
Chicago, IL 60606-6630

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OFFICE OF PETITIONS

In re Application of	:
Seiler, et al.	: DECISION ON PETITIONS
Application No. 09/919,594	: UNDER 37 CFR 1.47 and
Filed: July 31, 2001	: 37 CFR 1.183
Atty. Dkt. 5246 P 003	:

This decision is in response to the petition under 37 CFR 1.47(b) filed June 27, 2005. This matter is also being treated under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

Petitioners seek to submit a declaration under 37 CFR 1.131, but state that all of the inventors are not available to execute the declaration.

DECISION UNDER 37 CFR 1.47

The provisions of 37 CFR 1.47 (and a petition thereunder) are only applicable to the initial filing, and PTO acceptance, of an application wherein one or more of the named inventors refuses to sign, or cannot be located so as to sign, the oath or declaration filed under 37 CFR 1.63. The instant case contains a properly executed declaration under 37 CFR 1.63. See MPEP 201.03(b); 409.03.

Accordingly, the petition under 37 CFR 1.47 is hereby DISMISSED AS MOOT.

Petitioner may request a refund of the previously submitted $200.00 petition fee. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 provide that "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or

the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

pursuant to the provisions of 37 CFR 1.183, petitioners seek to waive the requirements of 37 CFR 1.131 and submit a declaration under 37 CFR 1.131 without the signature of all the named inventors.

The provisions of 37 CFR 1.131 provide that "[w]hen any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based."

The instant application is not subject to reexamination nor has the application previously been accorded status under 37 CFR 1.47. Accordingly, the inventors of the application must execute the Rule 1.131 declaration.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that the non-signing inventors sign the Rule 1.131 declaration, petitioners must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Petitioners have established that bona fide effort has been made to locate the non-signing inventors who are either unavailable, cannot be located, or deceased. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

The 37 CFR 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

The application file is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

CROWELL & MORING
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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SEP 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Dr. Dieter Grohmann et al :
Application No. 09/919,610 : ON PETITION
Filed: August 1, 2001 :
Attorney Docket No. 225/50239 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 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 November 21, 2001.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 21 2005

Agilent Technologies, Inc.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

In re Application of:
Ilsley et al.
Serial No.: 09/919,643
Filed: July 31, 2001
Attorney Docket No.: 10991398-1

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 May 21, 2003, 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. The delay in responding to this petition is regretted but it has just been brought to the attention of the deciding authority.

A review of the file history shows that the examiner mailed an Office action to applicants on September 17, 2002, setting a one-month statutory time period for reply. As the six months statutory period for response is up, this application is abandoned.

Applicants' state that the Office action of September 17, 2002 was never received and provides as evidence thereof a copy of the attorney docket reports 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 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.

Jasemine Chambers
Director, Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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Paper No. 16

ELIJAH COCKS
CHOATE, HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109

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FEB 24 2004

OFFICE OF PETITIONS

In re Application of
Sosin et al.
Application No. 09/919,665
Filed: July 31, 2001
Attorney Docket No. 2001611-0027

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 20, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed March 11, 2003. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on September 12, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 3600 for 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JAN 06 2003

OFFICE OF PETITIONS

In re Application of Furuichi et al. Application No. 09/919,667 Filed: July 31, 2001 Attorney Docket No.16869S-030600US	DECISION GRANTING PETITION

This is a decision on the petition filed January 25, 2002 (certificate of mailing November 7, 2001), to withdraw the Notice of Omitted Item(s).

On July 31, 2001, applicants filed the above-identified application. On September 7, 2001, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of July 31, 2001, and advising applicants that Figures 7-19 described in the specification appeared to have been omitted.

In response, on January 25, 2002 (certificate of mailing November 7, 2001), applicants filed, *inter alia*, the present petition and a copy of applicant's postcard receipt acknowledging receipt of 11 sheets of drawings on July 31, 2001. Additionally, applicant submitted copies of 10 sheets of drawings, containing Figures 1 and 3-19 with the present petition.

Upon review of the record, the drawing sheet containing Figures 1 and 3-19, deposited on July 31, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on July 31, 2001, included the 10 drawing sheets consisting of Figures 1 and 3-19, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 1 and 3-19, was complete on filing and will be granted a filing date of July 31, 2001.

Accordingly, the petition is granted. No petition fee is necessary. The Notice of September 7, 2001, was sent in error and is hereby vacated.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of July 31, 2001, using Figure 2 submitted on that date, and

Figures 1 and 3-19, submitted on January 25, 2002, and the mailing of a corrected filing receipt. The Office records should indicate that 11 sheets of drawings (Figures 1-19) were submitted on filing.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephen Clark Purcell	:	
Application No. 09/919,713	:	DECISION ON APPLICATION
Filed: July 31, 2001	:	FOR
Atty Docket No.0278148 BEL-030	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER § 1.705(b)," filed February 14, 2005. Applicant requests correction of the patent term adjustment indicated in the notice of allowance from six hundred forty-five (645) to eight hundred twenty-five (825) days solely on the basis of the Office taking in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentee is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated

in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
per

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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JJGJR.: 06-04

Paper No: 10

STEVENS , DAVIS , MILLER , & MOESHER
1615 L STREET , N.W.
SUITE 850
WASHINGTON DC 20036-5622

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JUN 1 6 2004
OFFICE OF PETITIONS

In re Application of
Susnjara, et al. :
Application No. 09/919,717 :
Filing Date: 1 August, 2001
Attorney Docket No. PNL21195 :

This is a decision on the petition filed on 24 December, 2003, and, *inter alia*, effectively requesting withdrawal of the holding of abandonment, so considered under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.181, or an alternative request for relief under 37 C.F.R. §1.137(b) (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181"; 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:

- the Office mailed a non-final Office action on 5 May, 2003, and appears to have re-mailed the action on 28 May, 2003, to Petitioner's then-current address of record (Peter N. Lalos, Lalos & Keegan, 5th Floor, 1146 19th St. NW, Washington, DC 20036-3723), with a reply due absent extension of time on or before 28 August, 2003;

- Petitioner failed to reply to that Office Action;

- Petitioner filed a Notice of Change of Address (Stevens Davis Miller & Mosher LLP, 1615 L St. NW/Ste. 850, Washington, DC 20036-5622) on 25 November, 2003;

- Notice of Abandonment was mailed to the new address on 31 December, 2003;

- the showing of Petitioner Peter N. Lalos (Reg. No. 19,789) includes his statement and a declaration of a member of his staff to the effect that because a merger-move was taking place on or about 1 March, 2002, mail was held at the post office and collected at "intervals 2-3 times per week"–however, in addition to failing to timely–i.e., for more than 20 months–follow the proper Notice procedure for a Change of Address, Petitioner provides no documentation in support of the allegations;

- Petitioner alleges that "[d]uring a routine status check of the file on November 25, 2003, [Petitioner] noted [that] no action had been received from the Patent Office for more than two years . . . " (Emphasis supplied);

- Petitioner has filed a "Request for Reconsideration," which he indicates is his reply to the outstanding Office action–which he misdates as 28 April, 2003.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for

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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 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] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[7] require diligence as to their filing–i.e., the petition must be filed within two months of

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[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] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by orreviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

the action complained of.

Allegations as to the Request to Withdraw
the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Petitioner failed to Notice the Office of a Change of Address for more than 20 months after the change occurred–and fails to acknowledge that delay.

Petitioner alleges that it was a "routine status check" that alerted Petitioner no action had been received from the Office in the instant matter "for more than two years."

It is respectfully suggested that characterization of a status checks occurring at two-year intervals suggests a somewhat expansive interpretation of the word "routine."

Quite simply, Petitioner fails to satisfy his burden under 37 C.F.R. §1.181

CONCLUSION

Because Petitioner failed to satisfy the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 must be and hereby is **dismissed**.

The instant application is held in the Office of Petitions for consideration of 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

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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JJGJR.: 06-04

Paper No: 11

STEVENS , DAVIS ,
MILLER , & MOESHER
1615 L STREET , N.W.
SUITE 850
WASHINGTON DC 20036-5622

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JUN 1 8 2004
OFFICE OF PETITIONS

In re Application of
Susnjara, et al. :
Application No. 09/919,717 :
Filing Date: 1 August, 2001
Attorney Docket No. PNL21195 :

This is a decision on the petition filed on 24 December, 2003, and, *inter alia*, alleging abandonment due to unintentional delay, so considered 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**–as authorized the petition fee ($665.00) is charged to Deposit Account 19-4375.

BACKGROUND

The record reflects that:

- on 5 May, 2003, the Office mailed a non-final Office action–and appears to have re-mailed the action on 28 May, 2003–to Petitioner's then-current address of record (Peter N. Lalos, Lalos & Keegan, 5th Floor, 1146 19th St. NW, Washington, DC 20036-3723), with a reply due absent extension of time on or before 28 August, 2003;

- Petitioner failed to reply to that Office Action;

- on 25 November, 2003, Petitioner filed a Notice of Change of Address (Stevens Davis Miller & Mosher LLP, 1615 L St. NW/Ste. 850, Washington, DC 20036-5622);

- Notice of Abandonment was mailed to the new address on 31 December, 2003;

- the showing of Petitioner Peter N. Lalos (Reg. No. 19,789) includes his statement and a declaration of a member of his staff to the effect that because a merger-move was taking place on or about 1 March, 2002, mail was held at the post office and collected at "intervals 2-3 times per week"–however, in addition to failing to timely–i.e., for more than 20 months–follow the proper Notice procedure for a Change of Address, Petitioner provides no documentation in support of the allegations;

- Petitioner alleges that "[d]uring a routine status check of the file on November 25, 2003, [Petitioner] noted [that] no action had been received from the Patent Office for more than two years . . . " (Emphasis supplied);

- Petitioner has filed a "Request for Reconsideration," which he indicates is his reply to the outstanding Office action–which he misdates as 28 April, 2003–and made the statement of unintentional delay, while authorizing the fee for a petition alleging unintentional delay (under 37 C.F.R. §1.137(b)).

NOTE: Docketing of Status Inquiries at six- (6-) month intervals following the filing of papers/replies may be prudent practice to demonstrate diligence when lengthy delays occur in matters such as this.

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]

---

[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.

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] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[7] require diligence as to their filing–i.e., the petition must be filed within two months of the action complained of.

Allegations as to Unintentional Delay

The requirements of a petition under 37 C.F.R. §1.137(b) are: petition, fee, reply, statement

---

[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] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by orreviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

and–if applicable–terminal disclaimer.

Applicable here are only the petition, fee, reply and statement requirements, which Petitioner has satisfied.

CONCLUSION

Petitioner has satisfied the requirements under 37 C.F.R. §1.137(b), the petition hereby is **granted**.

The instant application is forwarded to Technology Center 2600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

Paper No. 7

SCHWABE WILLIAMSON & WYATT P.C.
PACWEST CENTER, SUITE 1600-1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

COPY MAILED

AUG 0 1 2003

OFFICE OF PETITIONS

In re Application of	:
I. Claude Denton et al	:
Application No. 09/919,728	: DECISION GRANTING PETITION
Filed: July 31, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 109897-129948	:

This is a decision on the petition, filed June 11, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on "07/31/2001 [sic, 07/31/02]." However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center Art Unit 2663 for examination in due course.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#4138

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 J KOWALSKI
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE
NEW YORK, NY 10151

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NOV 2 6 2001

OFFICE OF PETITIONS

In re Application of Piero Anversa Application No. 09/919,732 Filed: July 31, 2001 Attorney Docket No. 674554-2002	: : : : :	DECISION GRANTING PETITION

This is a decision on the paper styled "Petition To Accord Filing Date..." filed on August 17, 2001, which is being treated as a petition under 1.10(c), requesting that the above-identified application be accorded a filing date of July 31, 2001, rather than the presently accorded filing date of August 1, 2001.

Applicant alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service, on July 31, 2001. In support, applicant provided a copy of the Express Mail label, receipt no. EL819168747US, showing a Date-In of July 31, 2001. The same Express Mail number appears on the original transmittal letter found in the present application. Applicant requests that the application be accorded a filing date of July 31, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on July 31, 2001.

The petition is granted.

The application is being returned to Initial Patent Examination Division to await applicant's reply to the Notice mailed September 4, 2001, and for correction of the filing date to July 31, 2001.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

Paper No. 4

PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

JUN 2 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
James A. Moorer
Application No. 09/919,742
Filed: July 31, 2001
For: ULTRA-DIRECTIONAL MICROPHONES

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 May 25, 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/Agent associated with Customer Number 36257 have been withdrawn.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Thomas F. Lebens
Fitch, Evan, Tabin and Flannery
1010 Peach Street
San Luis Obispo, CA 93401

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

C. EMMETT PUGH
PUGH/ASSOCIATES
PATENT & TRADEMARK ATTORNEYS
82 N. MAIN ST.
SUFFIELD, CT 06078-2102

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DEC 0 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Joseph C. Murray	:	
Application No. 09/919,747	:	ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. THERMA2A4-CIP	:	

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 September 5, 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 6, 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

FACSIMILE COVER PAGE

To :	**Commissioner for Patents**	**From :**	C. E. Pugh
Sent :	8/13/2004 at 10:28:24 PM	**Pages :**	5 (including Cover)
Subject :	THERMA2A4-CIP Petition, Fee w. Restriction Response SN 09/919,747		

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AUG 1 3 2004

Applicant: MURRAY, Joseph C.
Serial No.: 09/919,747
Filed: 08/01/2001
Title: "Insulating Packaging Material & Related Packaging System..."
Art Unit: 3728, Ex. BUI, Luan Kim

Following this for filing are a Petition (2 pages), Fee Transmittal (1 page, charging $665 petition fee to Deposit Acct. 16-2604/THERMA4-CIP) and Restriction Response (1 page) electing the claims of Group II.

A confirmation copy of these documents also will be sent by mail.

Thank you for your assistance.

C. Emmett Pugh, Reg. 22,826
Attorney of Record

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OFFICE OF PETITIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 13

C. EMMETT PUGH
PUGH/ASSOCIATES
PATENT & TRADEMARK ATTORNEYS
82 N. MAIN ST.
SUFFIELD, CT 06078-2102

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NOV 02 2004
OFFICE OF PETITIONS

In re Application of
Joseph C. Murray
Application No. 09/919,747
Filed: August 1, 2001
Attorney Docket No. THERMA2A4-CIP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 14, 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 August 15, 2003.

Pursuant to petitioner's authorization, Deposit Account No. 16-2605 was charged $665.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to Technology Center AU 3728.

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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PRYOR CASHMAN, LLP
410 PARK AVENUE
NEW YORK, NY 10022

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AUG 01 2008

In re Application of	:	
Joseph C. MURRAY	:	
Application No. 09/919,747	:	DECISION ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. 13737.00002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 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 application became abandoned on May 8, 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). 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.

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b).

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 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional.

Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on May 8, 2005. If possible, that party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As C. Emmett Pugh (Pugh) was the party having the right to reply at the date of abandonment, Pugh should explain, to the extent that his infirmities will permit, why this application became abandoned while it was under his control and what efforts he made to further reply and with whom this matter was discussed. When did Pugh become aware of the abandonment of this application? Although the records does indicate that Pugh suffered a stroke and subsequent incoherence on or around June 2006, the record does not show with substantiating evidence what the intent was with regard to this application prior to the date of abandonment on May 8, 2005.

In the event that Pugh is unable to assist, petitioner should explain why this application became abandoned and what efforts were made to further reply and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), petitioner and whoever else was involved with this application at the time of abandonment. Statements are required from person(s) in the law office and, if possible, the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent

abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

Statements are required from persons in the law office and, if possible, the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. Furthermore, the record shows that Mr. Joseph Murry (Murry) was diagnosed as cancer-free in June 2006 and immediately resumed business endeavors related to his inventions. Also, in June of 2006, Murry became aware of Pugh's infirmities and difficulty in remaining coherent. However, despite this knowledge of Pugh's limitations, Pugh was retained in a position of responsibility over the instant application and was not replaced as counsel until late July 2007. The record does not explain why Murry and ThermaFreeze Products Corporation waited for more than a year after learning of Pugh's limitations to ensure that the instant application was managed properly. An explanation from petitioner as to why the long delay in seeking revival should be excused is required despite this delay, independently of the delay in replying which caused abandonment in the first instance.

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 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.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the Diane Goodwyn at (571) 272-6735.

Christopher Bottorff

for Thurman Page
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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PRYOR CASHMAN, LLP
410 PARK AVENUE
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Application of
Joseph C. MURRAY
Application No. 09/919,747
Filed: August 1, 2001
Attorney Docket No. 13737.00002

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), and request for reconsideration filed October 20, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 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 application became abandoned on May 8, 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). 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.

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b).

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 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The renewed petition filed October 20, 2008, does 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 the person responsible must explain why the delay in this application does not result from a deliberate course of action (or inaction). As C. Emmett Pugh (Pugh) was the party having the right to reply at the date of abandonment, Pugh should explain, to the extent that his infirmities will permit, why this application became abandoned while it was under his control and what efforts he made to further reply and with whom this matter was discussed. When did Pugh become aware of the abandonment of this application? Although the records does indicate that Pugh suffered a stroke and subsequent incoherence on or around June 2006, the record does not show with substantiating evidence what the intent was with regard to this application prior to the date of abandonment on May 8, 2005.

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), petitioner and whoever else was involved with this application at the time of abandonment. Statements are required from person(s) in the law office and, if possible, the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent

abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman

Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

Statements are required from persons in the law office and, if possible, the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. Furthermore, the record shows that Mr. Joseph Murry (Murry) was diagnosed as cancer-free in June 2006 and immediately resumed business endeavors related to his inventions. Also, in June of 2006, Murry became aware of Pugh's infirmities and difficulty in remaining coherent. However, despite this knowledge of Pugh's limitations, Pugh was retained in a position of responsibility over the instant application and was not replaced as counsel until late July 2007. The record does not explain why Murry and ThermaFreeze Products Corporation waited for more than a year after learning of Pugh's limitations to ensure that the instant application was managed properly. An explanation from petitioner as to why the long delay in seeking revival should be excused is required despite this delay, independently of the delay in replying which caused abandonment in the first instance.

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 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.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the Diane Goodwyn at (571) 272-6735.

Thurman Page
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

PRYOR CASHMAN, LLP
410 PARK AVENUE
NEW YORK, NY 10022

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of
Joseph C. MURRAY
Application No. 09/919,747
Filed: August 1, 2001
Attorney Docket No. 13737.00002

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 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, February 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 application became abandoned on May 8, 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 $770; and (3) an adequate statement of unintentional delay.

Accordingly, petitioner has provided sufficient evidence to the satisfaction of the Director to accept the extended delay as unintentional.

The one (1) month extension of time under 37 CFR 1.136 submitted with the renewed petition dated February 23, 2009, has been acknowledged by the Office.

This application is being referred to Technology Center AU 3728 for appropriate action by the Examiner in the normal course of business.

Thurman Page
Petitions Examiner
Office of Petitions

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)
7004183	2006-02-28	09919748	2001-07-31	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Robert Gillis/	Date (YYYY-MM-DD)	2010-05-04
Name	Robert Gillis		

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. 7004183
Issue Date: February 28,2006
Application No. 09919748
Filed: July 31,2001
Attorney Docket No. 016494-001100US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 4,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PAUL, HASTINGS, JANOFSKY & WALKER LLP
P.O. BOX 919092
SAN DIEGO, CA 92191-9092

In re Application of	:	
Xiaowu Liang et al	:	
Application No. 09/919,758	:	DECISION ON PETITION
Filed: July 31, 2001	:	TO WITHDRAW
Attorney Docket No. 40019-008 C1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 18, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Amy E. Simpson, and all of the other attorneys associated with Customer No. **36183** has been revoked by the assignee of the patent application on July 18, 2005 and resubmitted on January 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

The application is being referred to Technology Center AU 1637 to await a reply to the Non-final Office action mailed January 24, 2006.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE # 700
7TH FLOOR
SAN DIEGO CA 92122-1246

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

LOWRIE LANDO & ANASTASI
ONE MAIN STREET
RIVERFRONT OFFICE PARK
CAMBRIDGE, MA 02142

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OCT 28 2005

OFFICE OF PETITIONS

In re Patent No. 6,923,568	:	
Issue Date: August 2, 2005	:	
Application No. 09/919,772	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. K0476-7005	:	

This is a decision on the petition under 37 CFR 1.182, filed October 11, 2005, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 305-8283.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Kimberly Terrell, South Tower, 8th Floor (Fax – (703) 746-4658)

UNITED STATES 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. 6631834
Issue Date: October 14,2003
Application No. 09919775
Filed: July 31,2001
Attorney Docket No. 575.022

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 6,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 6,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6,631,834	2003-10-14	09/919,775	2001-07-31	575.022

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	/Stanley D. Ference III/	Date (YYYY-MM-DD)	2007-12-06
Name	Stanley D. Ference III	Registration Number	33879

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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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of
Victor B. Kley
Application No. 09/919,780
Filed: June 31, 2001
Attorney Docket No. 020921-001611US

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 16, 2004, 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, 2003, using a Certificate of Mailing under 37 CFR 1.8 dated June 25, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2881 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
WWW.USPTO.GOV

Paper No. 9

BEYER WEAVER & THOMAS, LLP
P.O. BOX 778
BERKELEY CA 94704-0778

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DEC 2 2 2003

OFFICE OF PETITIONS

In re Application of	:
PETER F. KING	:
Application No. 09/919,782	: DECISION ON PETITION
Filed: July 31, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No.	:
UWP1P041/1155	:

This is a decision on the petition, filed November 17, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present 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).

Petitioner states that the present nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on July 18, 2002. A review of the file record discloses that a Notice to Rescind was received in the USPTO on June 27, 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 present 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 $1,330.00 is being credited to Deposit Account No. 50-0388 as authorized.

This application is being forwarded to Technology Center 2100 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

JAY P. SBROLLINI, ESQ.
THOMAS J. PERKOWSKI, ESQ., PC
SOUNDVIEW PLAZA
1266 EAST MAIN STREET
STAMFORD, CT 06902

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AUG 2 0 2003
OFFICE OF PETITIONS

In re Application of
Kenneth C. Hart
Application No. 09/919,786
Filed: August 1, 2001
Attorney Docket No. 134-001USA000

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 24, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 25, 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), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 3700, Art Unit 3727 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trad mark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/919,788	8/9/01	BULENT M. BASOL	42496/0129256

Title: **PLATING METHOD AND APPARATUS THAT CREATES A DIFFERENTIAL BETWEEN ADDITIVE DISPOSED ON A TOP SURFACE, ETC.**

Art Unit	Paper Number

Correspondence Address:
DAVID A. JAKOPIN
PILLSBURY WINTROP LLP
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

PATENT & TRADEMARK OFFICE

AUG 17 2001

LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 527,385

Grant Date: 13-Aug-01

Approved: Shanda Ross
for Commissioner of Patents and Trademarks

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LICENSE FOR FOREIGN FILING

[Title 35, United States C de (1952) Secti ns 184, 185, 186]

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United States Patent and Trademark Office
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Nutool Inc.
1655 Mc Candless Drove
Milpitas, CA 95035

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SEP 1 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bulent M. Basol :
Application No. 09/919,788 :
Filed: July 31, 2001 :
Attorney Docket No. 042496 0259663 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight June 9, 2004.

The Office acknowledges receipt of $1,330 for the issue fee, $300 for the publication fee, and $12 for four (4) advance order soft copies all filed on June 14, 2004.

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 so notify the Office. Also, 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 referred to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: Tina Chen
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street - 14th Floor
Irvine, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

DOUGHERTY, CLEMENTS & HOFER
THE ROXBOROUGH BUILDING
1901 ROXBOROUGH ROAD, SUITE 300
CHARLOTTE, NC 28211

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NOV 07 2003
OFFICE OF PETITIONS

In re Application of
James F. Hayes
Application No. 09/919,803
Filed: August 2, 2001
Attorney Docket No. 3814

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 22, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 23, 2003.

The Change of Correspondence Address has been accepted and recorded.

The application file is being forwarded to Technology Center 1700, Art Unit 1771 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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FISH & RICHARDSON PC
P O BOX 1022
MINNEAPOLIS, MN 55440-1022

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FEB 22 2007

OFFICE OF PETITIONS

In re Application of Shunpei Yamazaki et al Application No. 09/919,832 Filed: August 2, 2001 Attorney Docket No. 12732-063001/US5165	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed February 21, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 17, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 10

20 MAY 2002

Covington & Burling
Attn: Patent Docketing
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004-2401

In re Application of: Richard Foster	)	
Application No. 09/919,910	)	
Filed: August 2, 2001	)	**DECISION ON REQUEST FOR**
For: METHOD FOR ANALYZING THE	)	**WITHDRAWAL AS ATTORNEY**
PERFORMANCE OF SECURITIES	)	

This is a decision on the Request To Withdraw from Representation filed March 8, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

20 MAY 2002

Covington & Burling
Attn: Patent Docketing
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004-2401

In re Application of:	)	
Richard Foster	)	
Application No. 09/919,910	)	**DECISION ON REQUEST FOR**
Filed: August 2, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD FOR ANALYZING THE	)	
PERFORMANCE OF SECURITIES	)	

This is a decision on the Request To Withdraw from Representation filed January 14, 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 signer of the petition, Clarence E. Polk, Jr., is not appointed as an attorney or agent of record. Accordingly, the request is **DISMISSED**.

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

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WASHINGTON, D.C. 20231
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Paper No. 6

DANIEL REITENBACH
CROMPTON CORPORATION
BENSON ROAD
MIDDLEBURY CT 06749

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JUL 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Ronald O. Rosenberg et al :
Application No. 09/919,994 :
Filed: August 2, 2001 :
Attorney Docket No. D-6400 CIP :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 8, 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 16, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No timely extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 17, 2001.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the extension of time submitted with the petition on July 8, 2002 was subsequent to the maximum period obtainable for reply, no extension of time fee is due as a condition for revival. Accordingly, the $1,440 extension fee assessed to petitioner's deposit account will be credited in due course.

Receipt is acknowledged of the oath/declaration in response to the Notice of August 16, 2001.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to the Office of Initial Patent Examination Division for pre-examination processing.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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www.uspto.gov

Paper No. 13

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APR 2 1 2003

OFFICE OF PETITIONS

Crompton Corporation
Benson Road
Middlebury, CT 06749

In re Application of	:	
Ronald O. Rosenberg, et al.	:	
Application No. 09/919,994	:	ON PETITION
Filed: August 2, 2001	:	
Attorney Docket No. D-6400 CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 27, 2002, which set a shortened statutory period for reply of thirty (30) days. 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, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1970.00 extension of time submitted with the petition on April 2, 2003 was subsequent to the maximum extendable period for reply, the extension of time filed with the instant petition is unnecessary and the fee will be credited to petitioner's deposit account.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1700, Art Unit 1711.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley

Sherry D. 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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Paper No. 8

BLAKELY SOKOLOFF TAYLOR & ZAFMAN/PDC
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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JUN 19 2003

OFFICE OF PETITIONS

In re Application of Berkner, et al. Application No. 09/920,003 Filed: July 31, 2001 Attorney Docket No. 74451.P125	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(f), filed May 20, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on July 31, 2001 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On April 11, 2002, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on July 26, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

The petition fee of $1,300 has been refunded to Deposit Account No. 02-2666.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded.

The application file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. 10

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1026

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OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of
Berkner, et al.
Application No. 09/920,003
Filed: July 31, 2001
Attorney Docket No. 74451.P125

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed October 14, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an international application filed on March 22, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The application file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff by

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. 4

PIPER RUDNICK LLP
P.O. Box 64807
Chicago, IL 60440-0807

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DEC 12 2003

Technology Center 2100

In re Application of:
Luigi Guadagno et al.
Application No.: 09/920,025
Filed: August 1, 2001
For: DIALOG FACILITATION SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw from Representation filed November 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 agnet.

The signer of the petition, Jefferson Perkins is not appointed as an attorney or agent of record. Therefoer he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the Power of Attorney dated May 22, 2000.

for James R. Matthews

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Rankin, Paul J.	:	
Application No. 09/920,039	:	DECISION GRANTING PETITION
Filed: August 1, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. GB 000136	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/635,548, filed August 10, 2000, as 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 application is submitted after expiration of the period specified by 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 above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(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 above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 2642 for appropriate action on the amendment filed June 10, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

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

SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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JUL 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Aye et al.	:	
Application No. 09/920071	:	
Filing or 371(c) Date: 08/01/2001	:	ON PETITION
Title of Invention: 3-D HLCD SYSTEM	:	
AND METHOD OF MAKING	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2007, to revive the above-identified application.

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 November 18, 2002. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 19, 2003. A Notice of Abandonment was mailed July 11, 2003.

Applicant files the present petition and includes an Amendment in response to the Office action.

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 is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay[1]. Accordingly, the reply is accepted as having been unintentionally delayed.

[1] 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 application is being referred to Technology Center Art Unit 2872 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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JUL 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Aye et al.	:	
Application No. 09/920071	:	
Filing or 371(c) Date: 08/01/2001	:	ON PETITION
Title of Invention: 3-D HLCD SYSTEM	:	
AND METHOD OF MAKING	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2007, to revive the above-identified application.

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 November 18, 2002. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 19, 2003. A Notice of Abandonment was mailed July 11, 2003.

Applicant files the present petition and includes an Amendment in response to the Office action.

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 is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay[1]. Accordingly, the reply is accepted as having been unintentionally delayed.

[1] 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 application is being referred to Technology Center Art Unit 2872 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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)
6843261	2005-01-18	09920080	2001-07-31	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Robert Gillis/	Date (YYYY-MM-DD)	2010-05-04
Name	Robert Gillis		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 6843261
Issue Date: January 18,2005
Application No. 09920080
Filed: July 31,2001
Attorney Docket No. 016494-001200US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 4,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

HAMILTON & TERRILE LLP
PO BOX 203518
AUSTIN TX 78720

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NOV 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Shillington, et al.	:	
Application No. 09/902,128	:	DECISION ON PETITION
Filed: July 10, 2001	:	
Attorney Docket No. T00053	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 18, 2007.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file an Appeal Brief. Applicant filed a Notice of Appeal on March 6, 2007, together with a Pre-Appeal Brief Request for Review. Subsequently, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review on April 18, 2007. This Notice notified applicants that the appeal was proceeding to the Board of Patent Appeals and Interferences, and reset the time period for filing an Appeal Brief to one month. Extensions of time under 37 CFR 1.136(a) were available. The Office mailed a Notice of Abandonment on August 27, 2007.

Applicants have filed an Appeal Brief on October 18, 2007, made timely by obtaining a five (5) month extension of time.

Accordingly, it is obvious that the Notice of Abandonment was prematurely mailed.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 2113 for consideration of the Appeal Brief, filed October 18, 2007.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 6, 2009

TO SPE OF : ART UNIT 1647
SUBJECT : Request for Certificate of Correction for Appl. No.: 09/920137 /7250165

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Mary Mall
SPE

1657
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 8

JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS, TX 75202

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of
John Kelley
Application No. 09/920,168
Filed: August 1, 2001
Attorney Docket No. 08556-0015USPT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 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 April 11, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 12, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

The application file is being forwarded to Technoloyg Center AU 2854. Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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DEC 2 1 2005
OFFICE OF PETITIONS

In re Application of:
Gary L. Swoboda
Application No. 09/920,180
Filed: August 1, 2001
Attorney Docket No. TI-33147

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), October 28, 2005, to revive the above-identified application.

The petition is **dismissed.**

This application became abandoned for failure to timely remit the issue fee of $1,400.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") and to file corrected drawings as required by the Notice of Allowability both mailed September 23, 2004. The Notices set forth a three (3) month statutory period for reply. Accordingly, this application became abandoned on December 24, 2004. A Notice of Abandonment was mailed on February 2, 2005.

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)."

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirement of item (1) above.

As to item (1), the required reply to the Notice of Allowability was not found with the instant petition. Any renewed petition filed must be accompanied by corrected drawings as required by the Notice of Allowability mailed September 23, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of

Gary L. Swoboda

Application No. 09/920,180

Filed: August 1, 2001

Attorney Docket No. TI-33147

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), February 17, 2006, to revive the above-identified application.

The renewed petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,400.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") and to file corrected drawings as required by the Notice of Allowability both mailed September 23, 2004. The Notices set forth a three (3) month statutory period for reply. Accordingly, this application became abandoned on December 24, 2004. A Notice of Abandonment was mailed on February 2, 2005. A petition under 37 CFR 1.137(b) was filed on October 28, 2005, and dismissed by a decision mailed December 21, 2005.

The drawings filed February 17, 2006, are noted.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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FEB 14 2003

OFFICE OF PETITIONS

In re Application of :
Brian Craig Lee :
Application No. 09/920,207 : ON PETITION
Filed: August 1, 2001 :
Attorney Docket No. 10007046-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 17, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 18, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 3722.

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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EDWIN V. MERKEL
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603

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JAN 1 3 2006

OFFICE OF PETITIONS

In re Application of :
Jerry L. Toms :
Application No. 09/920,230 : ON PETITION
Filed: August 1, 2001 :
Attorney Docket No. 2263/101 :

This is a decision on the petition under 37 CFR 1.137(b) filed September 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a final Office action mailed September 10, 2003. A Notice of Abandonment was mailed on April 19, 2004. In response, on September 8, 2005, an amendment, Notice of Appeal and the present petition were filed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The 2-month period for filing the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center AU 3651.

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

HARNESS DICKEY & PIERCE PLC
5445 CORPORATE DRIVE
SUITE 200
TROY MI 48098

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MAR 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Pierte Roo	:	
Application No. 09/920,241	:	DECISION ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. MP0088	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 19, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to application No. 09/629,092.

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 applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed application has been included in an ADS; (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 and 365(c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Receipt of the $1,370 petition fee is acknowledged.

Any questions concerning this decision on petition may be directed to Petitions Attorney Cliff Congo at (571)272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being referred to Technology Center AU 2618 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.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
09/920,241	08/01/2001	2618	2126	MP0088	72	9

CONFIRMATION NO. 4034
CORRECTED FILING RECEIPT
OC000000022796678
OC000000022796678

26703
HARNESS, DICKEY & PIERCE P.L.C.
5445 CORPORATE DRIVE
SUITE 200
TROY, MI 48098

Date Mailed: 03/08/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Pierte Roo, Sunnyvale, CA;

Assignment For Published Patent Application

Marvell International Ltd., Hamilton HM DX, BERMUDA

Power of Attorney: The patent practitioners associated with Customer Number **23624**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/629,092 07/31/2000 PAT 6,775,529

Foreign Applications

If Required, Foreign Filing License Granted: 09/12/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US09/920,241

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Apparatus and method for converting single-ended signals to a differential signal, and transceiver employing same

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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JOHN P. WARD
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Guei-Yuan Lueh	:	
Application No. 09/920,274	:	ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. 42390P11423	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed October 22, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 25, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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 (571) 272-3220.

This matter is being referred to the Publishing Division.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

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JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Hans-Jurgen Mann, et. al.	:	
Application No. 09/920,285	:	ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. 637.0008USQ	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee, publication fee, and drawings in a timely manner in reply to the Notice of Allowance mailed June 4, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned September 4, 2004.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, $1,330 for the issue fee, $300 for the publication fee, $30 for ten (10) advance soft copies, an Amendment, and sixteen (16) sheets of Formal drawings containing Figures 1-14.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2872, for consideration of the Amendment under 37 CFR 1.312, filed September 9, 2004, as having been received prior to payment of the issue fee.

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

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Xiaobin Zhao	:	
Application No. 09/920,286	:	ON PETITION
Filed: August 2, 2001	:	
Attorney Docket No. 0623.1110001/JMC/MGP	:	

This is a decision on the petition, filed August 23, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 23, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1623 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : August 25, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Xiaobin Zhao
Application No. :09/920,286
Filed :August 2, 2001

The above-identified application has been assigned Patent No. 7,105,658 and an issue date of September 12, 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 September 12, 2006:

"All reference to Patent No. 7,105,658 to Xiaobin Zhao of United Kingdom for PROCESS FOR THE PRODUCTION OF MULTIPLE CROSS-LINKED HYALURONIC ACID DERIVATIVES appearing in the Official Gazette of September 12, 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

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Paper No. 5

MAIL

MAR 1 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of :
Roger A. Stern et al :
Application No. 09/920,337 :
Filed: July 31, 2001 :
For: **SYSTEM AND METHOD FOR OPTIMAL VIEWING OF COMPUTER MONITORS TO MINIMIZE EYESTRAIN** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on February 7, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents associated with Customer No. 20350 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: Sherwyne Baker, OD, FAAO
Panaseca, Inc.
2672 Bayshore Parkway, Suite 1030
Mountain View, CA 94043

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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of :
Stern et al. : DECISION ON PETITION
Application No. 09/920,337 :
Filed: 07/31/2001 :
Attorney Docket No. 019519-000310US :

This is a decision on the petition under 37 CFR 1.137(a), filed November 22, 2006, to revive the above-identified application.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on February 24, 2006, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on May 25, 2006. A Notice of Abandonment was mailed on July 11, 2006.

Petitioner has met the requirements under 37 CFR 1.137(a). Accordingly, the petition is **granted.**

This matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO, IL 60690-2828

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of
Christos Zouboulis
Application No. 09/920,392
Filed: August 1, 2001
Attorney Docket No. 01895300

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 1, 2004, which set a shortened statutory period for reply of three (3) months. A two-months extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed July 13, 2005 indicating that the reply filed on May 2, 2005, failed to place the application in condition for allowance. Accordingly, the application became abandoned on May 2, 2005.

The unentered amendment filed May 2, 2005 will be considered the submission required under 37 CFR 1.114.

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 (filed May 2, 2005) and a Request for Continued Examination (RCE); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed August 9, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 1600, Art Unit 1651 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 05

FEB 6 2003

Matthew W. Witsil
Moore & Van Allen PLLC
Suite 800
2200 West Main Street
Durham NC 27705

In re Application of:	:	
Roy S. Krupp	:	DECISION ON REQUEST
Application No. 09/920,427	:	
Filed: August 01, 2001	:	
Attorney Docket No.: 012720-27	:	

This is a response to the communication filed, via facsimile transmission, on January 28, 2003, and supplemented, via facsimile transmission on January 29, 2003 . The communications are being treated as a request to accept the response filed, via facsimile transmission, on November 18, 2002, as timely. No fee is required.

The petition is **granted.**

The application was held abandoned for failure to respond to the Office action mailed on July 17, 2002.

The requester asserts that on Monday, November 18, 2002, a response to the Office action of July 17, 2002, was transmitted to the United States Patent and Trademark Office (PTO), via facsimile transmission. To support this assertion, the requester has provided a copy of the response to the Office action that includes a proper Certificate of Facsimile Transmission under 37 C.F.R. §1.8, a successful transmission report dated November 18, 2002 and a statement from the attorney, Matthew W. Witsil, that attests on a personal knowledge basis, that the above identified response was facsimile transmitted to the PTO on November 18, 2002.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 C.F.R. § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 C.F.R. § 1.8(a).

The request meets the conditions of 37 C.F.R. § 1.8(b) to establish the previous timely filing of the response. The application is not abandoned in fact.

In view of the above, the application is not abandoned in fact and the holding of abandonment is withdrawn. The application is restored to pending status.

The copy of the amendment submitted with the request of January 28, 2003, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Commissioner for Patents
United States Patent and Trademark Office
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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
Yuriy M. Dunayeskiy et al	:	
Application No. 09/920,435	:	ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. HKI-106AX	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 22, 2005, 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 May 26, 2005, with the issue fee being due on or before August 26, 2005. The petition states that 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 May 26, 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.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1639 for appropriate processing of the RCE filed July 22, 2005 and consideration of the amendment submitted concurrently therewith.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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LISA A. BRZYCKI
610 NORTH 77TH STREET
WAUWATOSA, WI 53213

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Traci Cravaack et al
Application No. 09/920,472
Filed: August 1, 2001
Attorney Docket No. 200.001

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 27, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 28, 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: LISA A. BRZYCKI
GEHRKE & ASSOCIATES
123 N. 88TH STREET
WAUWATOSA, WI 53226

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LISA A. BRZYCKI
610 NORTH 77TH STREET
WAUWATOSA WI 53213

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MAY 2 2 2006
OFFICE OF PETITIONS

In re Patent No. 6,974,361 :
Issue Date: December 13,2005 :
Application No. 09/920,472 : ON PETITION
Filed: August 1, 2001 :
Attorney Docket No. 200.001 :

This is a decision on the petition under 37 CFR 1.182, filed April 13, 2006, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **DISMISSED**.

Since it is Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the Patent and Trademark Office on or about December 13, 2005, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a renewed petition may be filed under 37 CFR 1.182 **accompanied by a petition fee of $400** requesting duplicate Letters Patent. Upon receipt of the petition and required fee, the request for a duplicate Letters patent will be granted.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/31/2006

TO SPE OF : ART UNIT 3700 (3711)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,063,895

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 – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

***Ok to enter changes to dwg fig. 1, 4A & 4B as req. in COCIN in Madras?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

OK – MSC 11/3/06

EUGENE SPRIM
SUPERVISORY PATENT EXAMINER

3711
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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Paper No. 5

OPPENHEIMER WOLFF & DONNELLY
2029 CENTURY PARK EAST
SUITE 3800
LOS ANGELES, CA 90067

COPY MAILED

SEP 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Jamie Ader et al :
Application No. 09/920,514 : ON PETITION
Filed: August 1, 2001 :
Attorney Docket No. 21178-13 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 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 September 7, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 8, 2001.

Pursuant to petitioner's authorization, Deposit Account No. 16-2230 was charged $640.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

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APR 13 2007

OFFICE OF PETITIONS

In re Application of :
Robert G. Farris et al :
Application No. 09/920,545 : DECISION GRANTING PETITION
Filed: August 1, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. EFTD-25,791 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 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 (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of March 7, 2005, 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 2137.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

APR 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Schwankl et al.	:	
Application No. 09/920,573	:	DECISION ON PETITION
Filed: July 31, 2001	:	
Attorney Docket No. 003801.P058	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 23, 2006. A Notice of Abandonment was mailed June 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,500.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3692 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 081803

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 South Avenue West
Westfield, NJ 07090

AUG 19 2003

In re Application of:	:	
FJELSTAD *et al.*	:	DECISION ON PETITION
Serial No.: 09/020,647	:	TO WITHDRAW HOLDING
Filed: February 09, 1998	:	OF ABANDONMENT
Attorney Docket No.: TESSERA 3.0-078 DIV	:	

This is a decision on the petition filed on June 25, 2003, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file an appeal brief. A Notice of Abandonment was mailed on June 17, 2003.

Petitioner asserts that on December 09, 2002, a Notice of Appeal was filed. It is further asserted that the appeal brief was due on February 09, 2003, but the time period could be extended July 09, 2003. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt of an appeal brief on December 09, 2002.

A review of the written record indicates that a timely Notice of Appeal was filed on December 09, 2002. Since a Notice of Appeal is a proper response, under 37 CFR § 1.113, to the final Office action mailed July 25, 2002, and carries with it a two-month period in which to file a brief, the period for response did not expire until February 09, 2003. As pointed out in the petition, M.P.E.P. § 710.02(d) states that the time period for filing an appeal brief is extendable by up to five (5) months. Thus, the available time period for filing an appeal brief in the instant application with extensions would have expired at midnight on July 09, 2003.

Accordingly, the Notice of Abandonment mailed on June 17, 2003, was mailed prematurely, and the USPTO apologizes for any inconvenience this may have caused the practitioner.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the appeal brief filed July 10, 2003. From there, the application will go to the examiner for consideration.

Inquiries regarding 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/07

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction on Patent No.: 6492679

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:

SPE

2813
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mark Levy
HINMAN, HOWARD & KATTELL, LLP
80 Exchange Street
P.O. Box 5250
BINGHAMTON NY 13901

RECEIVED
DEC 19 2008
OFFICE OF PETITIONS

In re Patent No. 6,788,796
Issued: September 7, 2004
Application No: 09/920,664
Filed: August 1, 2001
Attorney Docket No. RB-127

This is a decision on the petition, filed November 26, 2008, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued September 7, 2004. The grace period for paying the 3.5-year maintenance fee expired at midnight September 7, 2008. Therefore, since the petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee of $490.00 and the surcharge of $1640.00 will be charged to deposit account 50-0427. The above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Steven M. Hoffberg
Milde & Hoffberg, LLP
10 Bank Street
Suite 460
White Plains, NY 10606

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Mark Levy
HINMAN, HOWARD & KATTELL, LLP
80 Exchange Street
P.O. Box 5250
BINGHAMTON NY 13901

COPY MAILED
DEC 19 2008

In re Patent No. 6,788,796
Issued: September 7, 2004
Application No: 09/920,664
Filed: August 1, 2001
Attorney Docket No. RB-127

This a decision on the petition under 37 CFR 1.378(b), filed November 26, 2008, to reinstate the above-cited patent.

The petition is **dismissed**.

The patent issued September 7, 2008. The 3.5 year maintenance fee could have been paid from September 7, 2007, through March 7, 2008, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from March 8, 2008, to September 7, 2008. Petitioner did not do so. Accordingly, the patent expired at midnight on September 7, 2008.

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.378(b).

Opinion

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1]

[1]The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard. 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee . . . at any time . . .if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F. Supp. 900, 904, 16 U.S.P.Q2d (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 agencys' interpretation of a statute it administers is entitle to deference"); see also Chevron U.S.A. Inc, v. Natural Resources Defense Counsil, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute s silent or

However, "[t]he question of whether an applicant's delay in prosecuting an application was unavoidable [will]be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawarness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP, or the Official Gazette notices does not constitute unavoidable delay.[3] The statute requires a "showing" by petitioner, therefore; petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Petitioner is responsible for possessing knowledge of the need to pay maintenance fees and the due dates for such fees, Petitioner is responsible for instituting a reliable docketing system to remind him or her when maintenance fees become due.

Petitioner is responsible for having knowledge of the need to pay maintenance fees and knowing when the fees are due.[4] The Office has no duty to notify a patentee of the requirement to pay maintenance fees or to notify patentee when a maintenance fee is due.[5] Even if the Office were required to provide notice to

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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."))

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F. 3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1781 (Fed Cir. 1995) (Citing In re patent No. 4,409, 763, 7 U.S.P.Q.2d BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P. Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "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 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat 31, 32-33 (1887)).

[2]Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3]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)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (plaintiffs, through their counsel's action, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[4]Nonawarness of PTO statutes, PTO rules, the MPEP, or Official Gazette notices, which state maintenance fee amounts and dates they are due does not constitute unavoidable delay. 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)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs, through their counsel's actions, or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner must act as a reasonable and prudent person in relation to his most important business. Upon obtaining the patent, a reasonable and prudent person, in relation to his most important business, would become familiar with the legal requirements of that business, in this case, the requirement to pay maintenance fees. In addition, a reasonable and prudent individual would read the patent itself and thereby become aware of the need to pay maintenance fees and the fact that such fee amounts are sometimes changed by law or regulation.

[5]Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) . . . [T]he Commissioner's no timely-notice interpretation." Ray v. Comer, 1994 U.S. Dist.

applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.[6]

A reasonable and prudent person, aware of the existence of maintenance fees, would not rely on maintenance fee reminders or on memory to remind him or her when payments would fall due several years in the future. Instead, such an individual would implement a reliable and trustworthy tracking system to keep track of the relevant dates.[7] The individual would also take steps to ensure that the patent information was correctly entered into the tracking system.

Application of the unavoidable standard to the present facts

In the instant petition, petitioner argues that the above-cited patent should be reinstated because the delay in paying the 3.5 year maintenance fee was the result of the failure of the attorney of record to follow normal procedures for paying the maintenance fee and invoicing petitioner for the payment later. Petitioner concludes that the delay in paying in the 7.5-year maintenance fee was, therefore, unavoidable.

The arguments have been considered, but are not persuasive as the showing made in the petition is incomplete. Further to this point, Section 2590 of the *Manual of Patent Examining Procedure* (MPEP) provides that, among other requirements, a petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

LEXIS 21478, 8-9 (1994), *aff'd on other grounds* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995) (Citing Rydeen v. Quigg, 748 F. Supp. 900, 905 (1990), Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 81 L. ed. 2d 694, 104 S. Ct. 2778 (1984)). "The Court concludes as it did in Rydeen, that as a constitutional matter, 'plaintiff was not entitled to any notice beyond publication of the statute." Id. at 3 (citing Rydeen v. Quigg, 748 F. Supp. at 906, Texaco v. Short, 454 U.S. 516, 536, 70 L. Ed. 2d 738, 102 S. Ct. 781 (1982)).

The Patent Office, as a courtesy tries to send maintenance fee reminders and notices of patent expiration to the address of record. However, the failure to receive the reminder notice, and the lack of knowledge of the requirement to pay the maintenance fee, will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. See MPEP 2575, 2540, 2590. Petitioner does not have a right to a personalized notice that this patent will expire if a certain maintenance fee is not paid, as the publication of the statute was sufficient notice. See Rydeen v. Quigg, 748 F. Supp. 900, 907 (1990). the ultimate responsibility for keeping track of maintenance fee states lies with the patentee, not the USPTO. Since the mailing of Notices by the Office is completely discretionary and not a requirement imposed by Congress, accepting an argument that failure to receive a Notice is unavoidable delay would result in all delays being unavoidable should the Office discontinue the policy. All petitions could allege non-receipt of the reminder, and therefore all petitions could be granted. This was clearly not the intent of Congress in the creation of the unavoidable standard.

[6]See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters of Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

[7] 37 CFR 1.378(b)(3) precludes acceptance of a late maintenance fee for a patent unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. The federal Circuit has specifically upheld the validity of this regulation. Ray v. Lehman, 55 F.3d 606, 609; 34 USPQ2d (BNA) 1786 (Fed.Cir. 1995). In Ray v. Lehman, petitioner claimed that he had not known of the existence of the maintenance fees and therefore had no steps in place to pay such fees. The petitioner therefore argues that the PTO's regulation, 37 CFR 1.37(b)(3), supra, arguing that it 'creates a burden that goes well beyond what is reasonably prudent." We disagree, The PTOs' regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." Id.

> (C) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be timely and that the petition was filed promptly after the patentee was notified of , or otherwise became aware of, the expiration of the patent.
>
> The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

As the crux of petitioner's argument rests on the failure of the Mark Levy Firm or Hinman, Howard, and Kattell to follow normal procedures and pay the maintenance fee upfront and invoice petitioner for the maintenance fee later. Yet, petitioner has not filed a statement from a representative of the Mark Levy Firm or Hinman, Howard, and Kattell with first-hand knowledge of the events surrounding the expiration of the patent. A successful petition under 37 CFR 1.378(b) requires that a statement be made by all persons with direct knowledge of the cause for the delay in paying the maintenance fee. A statement from a knowledgeable representative of the Mark Levy Firm or Hinman, Howard, and Kattell is, therefore, an integral part of a successful petition under 37 CFR 1.378(b) under the facts presented. Petitioner has not made the required showing of unavoidable delay in paying the 3.5-year maintenance fee. The petition is dismissed, accordingly.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision.[8] The petition for reconsideration should be titled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration for this decision must be accompanied by a non-refundable petition fee of $400.00 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. It is, therefore, extremely important that petitioner supply any and all relevant information and documentation with the request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence "to show" that the delay was unavoidable. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may file a petition under 37 CFR 1.378(c) to reinstate the subject patent.

A reasonable and prudent person would not rely on maintenance fee reminders from the Office for two reasons. First, the Office has indicated that such reminders are a mere courtesy and has reserved the right to discontinue such reminders at any time. second, such reminders may be lost in the mail. A reasonable and prudent person, in regard to his most important business would not rely solely on reminders that the Office may or may not send which may or may not be lost in the mail.

[8]No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704.

III. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1460
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

cc:
Steven M. Hoffberg
Milde & Hoffberg, LLP
10 Bank Street
Suite 460
White Plains, NY 10606

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

MAIL

APR 2 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Marc A. Brockhaus
Dunlap, Codding & Rogers, P.C.
P.O. Box 16370
Oklahoma City, OK 73113

In re Application of:
Charles C. Freeny, Jr.
Application No. 09/920,669
Filed: August 2, 2001
For: MASTER OPERATING SOFTWARE SYSTEM

DECISION ON PETITION UNDER 37 CFR §1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed 27 February 2004 under 37 CFR §1.181 to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Office action mailed 14 July 2003 (Paper No. 6). A Notice of Abandonment was mailed 17 February 2004 (Paper No. 7).

In support of the petition, Petitioner provides a copy of (1) an amendment, (2) a substitute specification, (3) substitute drawings, (4) a petition for an extension of time for 3 months, (5) transmittal form with a certificate of mailing of 14 January 2004, (6) a fee determination form and (7) a fee transmittal form. Petitioner also provides a copy of a post card with a PTO stamp indicating receipt of the aforementioned items at the U.S. Patent and Trademark Office on 14 January 2004, as well as a copy of an Express Mail label stamped 14 January 2004.

A review of the file record indicates that the response was received on 14 January 2004 and has been associated with the file. Therefore, the record is clear that the application was ***not abandoned in fact*** and a Notice of Abandonment should not have been issued. Therefore, the petition is **GRANTED**. The Notice of Abandonment is withdrawn.

The Office regrets any inconvenience caused by the mailing of the Notice of Abandonment.

The application file is being forwarded to the Technology Center support staff for processing of the response filed 14 January 2004. The file will then be forwarded to the Examiner for appropriate action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

TYCO TECHNOLOGY RESOURCES
SUITE 450
4550 NEW LINDEN HILL ROAD
WILMINGTON, DE 19808

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JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of
Carsten Buick, et al.
Application No. 09/920,702
Filed: August 2, 2001
Attorney Docket No. 40983 US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 2004, to revive the above-identified application.

A review of the record discloses that a Notice to File Missing Parts was mailed on October 4, 2001, requiring an oath or declaration under 37 CFR 1.63, the requisite surcharge under 37 CFR 1.16(e), and substitute drawings in compliance with 37 CFR 1.84. The notice set a 2-month period for reply. Applicant timely submitted an executed declaration and the $130 surcharge on January 18, 2002, in view of an appropriate extension of time and a proper certificate of mailing under 37 CFR 1.8 dated January 4, 2002. However, since the substitute drawings were not filed, the application became abandoned on January 5, 2002. On December 17, 2003, a Notice of Abandonment was mailed. In response, on January 22, 2004, petitioner submitted, inter alia, the present petition and eleven (11) sheets of substitute drawings, containing Figures 1-15.

The petition is **GRANTED**.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 13

David M. Kettner
Quarles & Brady LLP
1 South Pinckney Street
P.O. Box 2113
Madison WI 53701-2113

COPY MAILED
JUL 13 2004
OFFICE OF PETITIONS

In re Application of	:
Amasino et al.	: DECISION GRANTING PETITION
Application No. 09/920,705	:
Filed: August 2, 2001	:
Attorney Docket No. 960296.97214	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2004, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Office action mailed on August 11, 2003, which set a period of one (1) month or thirty (30) days, whichever was longer to respond. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Accordingly, this application became abandoned on September 12, 2003. A Notice of Abandonment was mailed on March 26, 2004.

The petition is granted.

This application is being forwarded to Technology Center 1600.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 2 2 2005

OFFICE OF PETITIONS

J. Michael Boggs
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101-2400

In re Application of :
Ben Byrd :
Application No. 09/920,707 : ON PETITION
Filed: August 2, 2001 :
Attorney Dkt. No: 41872-206195 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 26, 2004.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned February 14, 2004 for failure to timely reply to the non-final Office Action mailed on November 14, 2003. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed June 23, 2004.

Petitioner asserts that a reply to the non-final Office Action and a request for a three month extension of time (and accompanying fee) were timely submitted on May 14, 2004. As evidence, petitioner has submitted a copy of a post card receipt, Express Mail Label pursuant to 37 CFR 1.10 and a copy of the reply which contains a certificate of mailing pursuant to 37 CFR 1.8.

The response submitted May 14, 2004 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DRW 01-02

Paper No. 5

ROBERT H. EPSTEIN
EPSTEIN, EDELL, SHAPIRO, FINNAN & LYTLE, LLC
1901 RESEARCH BLVD., SUITE 400
ROCKVILLE, MD 20850

COPY MAILED

JAN 0 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey H. Diamond	:	
Application No. 09/920,750	:	DECISION GRANTING PETITION
Filed: 3 August, 2001	:	
Attorney Dkt. No. 0136.0003C	:	

This is a decision on the petition filed on 18 October, 2001, requesting that the above-identified application, including five (5) sheets of drawings, be accorded a filing date of 3 August, 2001.

On 3 August, 2001, the application was filed.

On 7 September, 2001, Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had been deposited without drawings, and that applicant should reconsider whether drawings are necessary under 35 U.S.C. § 113 (first sentence).

On 18 October, 2001, petitioners filed five (5) sheets of drawings, the present petition, and a petition fee of $130.00. Petitioners argue that five (5) sheets of drawings were filed with the other application papers on 3 August, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied on 18 October, 2001. The postcard receipt shows an Office date stamp of 3 August, 2001 and the present application number, and acknowledges receipt of 5 sheets of formal drawings. Petitioners request that the application, including five (5) sheets of drawings, be accorded a filing date of 3 August, 2001.

A review of the record reveals that no sheets of drawings are located among the application papers deposited on 3 August, 2001. However, the evidence is convincing that the application papers deposited on 3 August, 2001, included five (5) sheets of drawings, which were subsequently misplaced in the Office.

Therefore, the application, including five (5) sheets of drawings, is entitled to a filing date of 3 August, 2001.

The Notice of Incomplete Nonprovisional Application mailed on 7 August, 2001, was sent in error is hereby vacated.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 05-0460.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of 3 August, 2001, using the application papers filed on 3 August, 2001, and the five (5) sheets of drawings supplied on 18 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

PARK VAUGHAN & FLEMING LLP
508 SECOND STREET
SUITE 201
DAVIS, CA 95616

COPY MAILED

APR 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
James Bryce Sutherland	:	
Application No. 09/920,787	:	NOTICE
Filed: August 1, 2001	:	
Attorney Docket No. WBG01-1653	:	

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 2151.

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.g

Date Mailed: July 21, 2008
Patent No. 7,003,776 B1
Ser. No. :09/920787
Inventor(s) :James Bryce Sutherland
Issued :February 21, 2006
Title: SYSTEM AND METHOD FOR OBJECT PERSISTENCE LIFE-CYCLA AND OBJECT CACHING INTEGRATION

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Park, Vaughan & Fleming, LLP
2820 Fifth Street
Davis, CA 95616

MD/mt

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

PARK VAUGHAN & FLEMING LLP
508 SECOND STREET
SUITE 201
DAVIS, CA 95616

COPY MAILED

APR 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Yaoping Wang et al	:	
Application No. 09/920,789	:	NOTICE
Filed: August 1, 2001	:	
Attorney Docket No. WBG01-1654	:	

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 2177.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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A. Richard Park
Park, Vaughan & Fleming, LLP
2820 Fifth Street
Davis, CA 95616

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Patent No. 6,907,433	:	
Issue Date: June 14, 2005	:	
Application No. 09/920,789	:	ON PETITION
Filed: August 1, 2001	:	
Patentee(s): Yaoping Wang, et. al.	:	

This is a decision on the petition filed on July 5, 2005, which is being treated as a request under 37 CFR 3.81[1], to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 4

A. RICHARD PARK
PARK VAUGHAN & FLEMING LLP
508 SECOND STREET, SUITE 201
DAVIS, CA 95616

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APR 0 3 2002

OFFICE OF PETITIONS

In re Application of :
James Bryce Sutherland :
Application No. 09/920,790 :
Filed: August 1, 2001 :
Attorney Docket No. WBG01-1657 :

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

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Celine Feger et al. :
Application No. 09/920,810 :
Filed: August 3, 2001 :
Attorney Docket No.: 3806.0509-00 :
Title: DALFOPRISTINE/QUINUPRISTINE :
COMBINATIONS WITH CEFPIROME :

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed June 22, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 3, 2003, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 4, 2003.

With the instant petition, the petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the petition fee, the required reply in the form of the filing of a request for consideration, and the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

---

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.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Meghan M. Makary
EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

2 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES 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 WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

In re Application of:
Alesi, Daniel E. et al
Serial No.: 09/920,860
Filed: Aug. 3, 2001
Docket: 0100/0129
Title: NEEDLE SAFETY DEVICE WITH TORTUOUS PATH

DECISION ON PETITION

This is a decision on the petition filed on May 5, 2008 seeking to forward the case to the Board of Patent Appeals and Interferences for adjudication. This petition is being considered pursuant to 37 CFR § 1.181(a) (3). No fee is required for this petition. The petition fee paid may be refunded upon request.

The petition is **Granted.**

In the petition, the petitioner requests that the Director to direct the examiner to consider the appeal brief filed on May 5, 2005 and forward the application to the Board of Patent Appeals and Interferences for final resolution.

The record shows that:

1) In response to the applicant's amendment of Feb. 12, 2003, on May 6, 2003 the examiner mailed a final Office action.
2) On Jul. 25, 2003, the petitioner filed a notice of appeal followed with an appeal brief on Sep. 22, 2003, appealing the claims under final rejection.
3) On Mar. 16, 2004, the examiner issued a non-final Office action maintaining the rejection, but reopening the prosecution of the case.
4) On Jun. 15, 2004, the petitioner filed a new notice of appeal and a second appeal brief.
5) On Jul. 6, 2007, the examiner issued another non-final Office action maintaining the rejection, but reopening the prosecution of the case.
6) On Oct. 1, 2007, the petitioner filed third notice of appeal and third appeal brief.
7) On Feb. 5, 2008, the examiner issued another non-final Office action maintaining the rejection, but reopening the prosecution of the case.

8) On May 5, 2008, the petitioner filed fourth notice of appeal and fourth appeal brief.
9) On May 5, 2008 the present petition was filed requesting the examiner to forward the case to the Board of Patent Appeals and Interferences for its adjudication.

Discussion and Analysis

A review of the application reveals that there is a prolonged prosecution in this case. The application history also shows the examiner reopened prosecution three times. Office policy requires examiners to complete a thorough prior art search, and avoid piecemeal examination as much as possible. Office policy discourages piece meal prosecution as set forth in M.P.E.P §707.07(g)[1]. Regrettably due to late discovery of prior art, prosecution of the applicant's invention has been unavoidably prolonged. It should be noted that the Primary Examiner has a duty to consider the merits of the claims under M.P.E.P. § 1004. In order to avoid re-opening prosecution, the examiner is reminded to perform a complete and thorough search of prior art considering not only the claims presented, but also any subject matter the examiner reasonably anticipates might be incorporated into a subsequent amendment in accordance with M.P.E.P. 904.03[2].

In response to the petition, the examiner is hereby instructed to timely set up an appeal conference in accordance with M.P.E.P. §1207.01. Additionally, the examiner is also directed to conclude the examination of the application as soon as possible.

Conclusion

Under the circumstances, the relief requested by the petitioner is granted. The application is being forwarded to the Supervisory Patent Examiner in Art Unit 3767 for consideration of the appeal brief filed on May 5, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

Petition Granted.

Frederick R. Schmidt, Director
Technology Center 3700

---

[1] M.P.E.P. § 707.07(g) states: Piecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim on all valid grounds available, avoiding, how-ever, undue multiplication of references

[2] M.P.E.P. § 904.03 states in relevant part: "'It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the examiner reasonably anticipates might be incorporated into applicant's amendment."

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. 12

The Eclipse Group
26895 Aliso Creek Road
Suite B-104
Aliso Viejo, CA 92656-5301

COPY MAILED

JAN 2 7 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
McConnell et al. :
Application No. 09/920,898 :
Filed: August 2, 2001 :
Attorney Docket No. ST01013USU 102-US-U1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 17, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 18, 2003.

The application file is being forwarded to Technology Center AU 3662.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

Paper No. 4

MORGAN & FINNEGAN, LLP
345 PARK AVENUE
NEW YORK, NY 10154

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JAN 08 2002

OFFICE OF PETITIONS

In re Application of	:	
Agee et al.	:	
Application No. 09/920,903	:	ON PETITION
Filed: 3 August, 2001	:	
Attorney's Docket No. 4271-4036US3	:	

This is a decision on the petition filed on 24 October, 2001, requesting that the above-identified application be accorded a filing date of 3 August, 2001, with Pages 26-37 as a part of the original disclosure.

The petition is granted.

The application was filed on 3 August, 2001. However, on 27 September, 2001, Initial Patent Examination Division mailed a "Notice" stating, *inter alia*, that the application had been accorded a filing date but that Pages 26-37 of the specification (description and claims) appeared to have been omitted.

In response, on 24 October, 2001, pages 26-37 of the specification, the present petition, and a petition fee were filed. Petitioners argue that Pages 26-37 were filed with the other application papers on 3 August, 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 24 October, 2001. The postcard receipt shows an Office date stamp of 3 August, 2001, identifies the application by first named inventor's last name, docket number, and invention title, and acknowledges receipt of, *inter alia*, 181 pages of specification and 73 pages of claims. Petitioners request that the application, including Pages 26-37 of the specification, be accorded a filing date of 3 August, 2001.

A review of the record reveals that no Pages 26-37 of the specification has been located among the application papers deposited on 3 August, 2001. However, the evidence is convincing that the application papers deposited on 3 August, 2001, included Pages 26-37 of the specification, which were subsequently misplaced in the Office. Therefore, the application, including Pages 26-37 of the specification, is entitled to a filing date of 3 August, 2001.

The "Notice" mailed on 27 September, 2001, is vacated to the extent that it stated that pages 26-37 of the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee is unnecessary and will be credited to counsel's deposit account, No. 13-4503. The filing and extra claims fees required by the Notice to File Missing Parts mailed 27 September, 2001, will also be charged to counsel's deposit account.

The application will be processed and examined using the copies of Pages 26-37 supplied on 24 October, 2001.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 3 August, 2001, using the application papers filed on 3 August, 2001, and the copies of Pages 26-37 supplied on 24 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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CAROL WILSON
BP AMERICA INC.
MAIL CODE 5 EAST
4101 WINFIELD ROAD
WARRENVILLE IL 60555

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FEB 08 2007

OFFICE OF PETITIONS

In re Application of	:	
Taheri et al.	:	
Application No. 09/920981	:	ON PETITION
Filed: 08/02/2001	:	
Attorney Docket Number 39000	:	

This is a decision on the petition filed on 13 November, 2006, 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**.

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

---

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR1.17(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)).

"Renewed Petition to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

The application became abandoned on 17 April, 2006, for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 16 March, 2006, which set a one (1) month shortened 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 3 October, 2006.

Petitioners assert unavoidable delay in that the Notice mailed on 16 March, 2006, was never received.

Specifically, petitioner states, in pertinent part:

> The Office Action was mailed to Ms. Carol Wilson of BP America Inc. at 4101 Winfield Road, Warrenville, Illinois and should be been forwarded to the 200 E. Randolph Drive, Chicago, Illinois address and then again should be been forwarded to the 4225 Naperville Road, Lisle, Illinois address.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioners assert that the Office communication mailed on 16 March, 2006, 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 communication may have been lost after receipt rather than a conclusion that the Office action was lost in the

[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).

mail (*e.g.*, if the practitioner has a history of not receiving Office actions).

At the outset, the showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Petitioners have not provided the required statement by the practitioner nor is a copy of the docket report referenced in and attached to the practitioner's statement.

Furthermore, assuming *arguendo*, a docket report and statement by the practitioner had been provided, the showing of record, petitioners' statement that the Office communication was to be forwarded to multiple addresses suggests that the Office action was lost after receipt rather than being lost in the mail. Specifically, petitioners would need to show that the Notice would have been docketed at the correspondence address of record had it been received, and provide a statement by the practitioner that the Notice was not received at the correspondence address of record, and include a copy of the docket report referenced in the practitioner's statement.

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

[3] 35 U.S.C. § 133.

> unavoidable, all other conditions of promptness in its rectification being present.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

As stated above, the showing of record is that the failure to receive the Notice mailed on 16 March, 2006, occurred because it became lost after receipt at the correspondence address. Specifically, in view of petitioners' statement that the Notice was to be forwarded two (2) times after receipt by petitioners and before being received by counsel, it appears that the Office action may have been mishandled or misfiled after being received at the correspondence address of record. As such, the showing of record fails to establish that the entire delay in responding to the Notice was unavoidable.

As the showing of record is insufficient to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience.

The address in the petition is different from the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

Cc: INEOS USA LLC
CENTRAL PARK OF LISLE
4225 NAPERVILLE ROAD, S/600
LISLE IL 60532

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-07

INEOS USA LLC
3030 WARRENVILLE RD, S/650
LISLE IL 60532

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MAY 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Taheri et al.	:	
Application No. 09/920981	:	ON PETITION
Filed: 08/02/2001	:	
Attorney Docket Number 39000	:	

This is a decision on the petition filed on 19 March, 2007, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 17 April, 2006, for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 16 March, 2006, which set a one (1) month shortened 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 3 October, 2006. The petition under 37

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

CFR 1.137(a) filed on 13 November, 2006, was dismissed on 8 February, 2007.

The address in the petition is different from the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is forwarded to Technology Center Art Unit 1725 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

Cc: INEOS USA LLC
CENTRAL PARK OF LISLE
4225 NAPERVILLE ROAD, S/600
LISLE IL 60532

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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INEOS USA LLC
3030 WARRENVILLE RD, S/650
LISLE IL 60532

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JUN 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Taheri et al.	:	CORRECTED DECISION
Application No. 09/920981	:	ON PETITION
Filed: 08/02/2001	:	
Attorney Docket Number 39000	:	

This is a corrected decision on the petition filed on 19 March, 2007, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on 10 November, 2005, for failure to timely file a proper response to the final Office

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

action mailed on 9 May, 2005, which set a three (3) month shortened statutory period for reply. On 8 November, 2005, an amendment after final rejection and three (3) month extension of time were filed. However, the examiner found that the amendment was not compliant with 37 CFR 1.121, and therefore, the amendment failed to place the application in *prima facie* condition for allowance. Notice of Abandonment was mailed on 3 October, 2006. The petition under 37 CFR 1.137(a) filed on 13 November, 2006, was dismissed on 8 February, 2007.

A review of the record reveals the following:

On 9 May, 2005, a final Office action was mailed, setting forth a three (3) month shortened statutory period for reply.

On 8 November, 2005, a three (3) month extension of time and an amendment in response to the final rejection were filed.

On 12 December, 2005, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed, stating that the amendment filed on 8 November, 2005, did not meet the requirements of 37 CFR 1.121, and that no new time period was provided since the non-compliant amendment is an after-final amendment.

On 18 January, 2006, an amendment after final rejection was filed.

On 16 March, 2006, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed, stating that the amendment filed on 18 January, 2006, did not comply with the requirements of 37 CFR 1.121.

On 3 October, 2006, a Notice of Abandonment was mailed.

On 13 November, 2006, a petition under 37 CFR 1.181 and 1.137(a) was filed. The petition was dismissed on 8 February, 2007.

The present petition under 37 CFR 1.137(b) was filed on 19 March, 2007, accompanied by an amendment after final rejection.

Upon further review, the examiner has determined that the reply filed with the present petition under 37 CFR 1.137(b) fails to place the application in condition for allowance. As such, the petition must be **dismissed**, and the application remains **abandoned**.

In this regard, the only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. The examiner has determined that the amendment filed on 19 March, 2007, does not place the case in *prima facie* condition for allowance. A copy of the examiner's Advisory Action is enclosed for petitioner's reference.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The address in the petition is different from the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Advisory Action

Cc: INEOS USA LLC
CENTRAL PARK OF LISLE
4225 NAPERVILLE ROAD, S/600
LISLE IL 60532

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/920,981	Applicant(s) TAHERI ET AL.	
	Examiner Kevin P. Kerns	Art Unit 1725	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 March 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 ___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: *1-6,8-11 and 33-41*.
   Claim(s) withdrawn from consideration: *12-32*.

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: the applicants' remarks and affidavit under 37 CFR 1.132 is insufficient to overcome the examiner's response set forth in sections 3 and 5 of the final rejection mailed May 9, 2005.
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). ___
13. Other: ___.

Kevin P. Kerns
Primary Examiner
Art Unit: 1725

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

MAILED

APR 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark Killmer et al.	:	
Application No. 09/921,003	:	DECISION ON PETITION
Filed: August 1, 2001	:	TO WITHDRAW
Attorney Docket No. 25720-702	:	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 27, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by George A. Willman on behalf of attorney/agents associated with customer number 21971. All attorneys/agents associated with customer number 21971.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed. All future correspondence will be mailed to the address of the assignee.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: LTDnetwork Party Ltd
c/o J. Christopher Roe
211 Madison Avenue #28B
New York, NY 10016

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/921,003	08/01/2001	Mark Killmer	25720-702

CONFIRMATION NO. 5843

POWER OF ATTORNEY NOTICE

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

OC000000035389399

Date Mailed: 04/08/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/27/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAY 3 1 2005

Technology Center 2100

BANNER & WITCOFF, LTD.
1001 G STREET, N.W.
WASHINGTON DC 20001-4597

In re Application of: BARCHI, et al.
Application No. 09/921,015
Attorney Docket No.: 006004.00013
Filed: August 1, 2001
For: ATTRIBUTE RULE ENFORCER FOR A DIRECTORY

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition, filed October 15, 2004, requesting the Withdrawal of the Holding of Abandonment of the above-identified application, which has been treated as a petition under 37 CFR §1.181. This application was held abandoned for failure to file a timely response to the Office Action mailed on February 9, 2004. A Notice of Abandonment was mailed September 23, 2004.

The petition is **GRANTED**.

In support of the petition, Petitioner provides a copy of: (a) the Request for Reconsideration, filed in response to the Office action of mail date February 9, 2004, which includes a Certificate of Mailing by "Express Mail" signed by Thomas Evans dated May 10, 2004; and (b) a copy of the Express Mail Post Office to Addressee, and a copy of the return postcard identifying the paper(s) filed showing the USPTO receipt stamp, both dated May 10, 2004.

M.P.E.P. § 503 states:

> A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Upon inspecting records on file for the application, it is acknowledged that a Response by Applicants, a Request for Reconsideration, was received by USPTO on May 10, 2004. Therefore, the record is clear that the application was not abandoned in fact and a Notice of Abandonment should not have been issued. Due to massive migration from paper file wrappers to Image File Wrapper (IFW) in the Technology Center during the period when Applicants' response was filed, potential delays could happen such that communications from Applicants may not have been matched and recorded to the electronic file wrappers in a timely manner. Thus, decisions regarding the timeliness of Applicants' filing of a proper reply could have been inaccurately made based on the delays. The Office regrets any inconveniences this may have caused the Applicants.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED.**

The application file is being forwarded to the technical support staff to **WITHDRAW** the holding of abandonment, and for processing of the response filed May 10, 2004. The file will be forwarded to the examiner for consideration of the response.

5/5/05

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 05/02/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080311

DATE : 09/921016

TO SPE OF : ART UNIT 3772

SUBJECT : Request for Certificate of Correction on Patent No.: 7,047,975

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

PATRICIA BIANCO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
8/11/08

SPE: Patricia Bianco Art Unit 3772

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Paper No. 5

NESTOR W. SHUST
HUDAK & SHUNK CO., L.P.A.
SUITE 808
7 WEST BOWERY ST.
AKRON, OH 44308-1138

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AUG 1 3 2002

OFFICE OF PETITIONS

In re Application of
Andrew Bell et al.
Application No. 09/921,051
Filed: August 2, 2001
Attorney Docket No. 1980044B-DIV

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed on April 2, 2002, requesting that the above-identified application be accorded a filing date of August 2, 2001, with Pages 175 to 182 of the specification as a part of the original disclosure.

The application was filed August 2, 2001. On February 19, 2002, however, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of August 2, 2001, but that, Pages 175 to 182 of the specification (description and claims) appeared to have been omitted from the application.

In response, on April 2, 2002, the present petition was filed. Petitioners argue that a complete application was present on August 2, 2001, for filing date purposes. Petitioners point to their postcard receipt as evidence that Pages 175 to 185 of the specification were among the application papers filed on August 2, 2001. Petitioners request that the application be accorded a filing date of August 2, 2001, with Pages 175 to 185 as a part of the original disclosure.

The argument and evidence supplied with the petition as it relates to the post card receipt have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503).

Unfortunately, in this case, petitioners' postcard receipt fails to itemize the papers allegedly filed in this application. The postcard receipt does not itemize the number of pages of specification filed, or a specification at all. A postcard receipt will not serve as prima facie evidence of receipt in the USPTO of any items which are not properly itemized and identified.

Petitioner also asserts that the entire disclosure of the parent application was incorporated by reference into the instant divisional application. And, since the divisional specification is a true copy of the parent application, the specification should be deemed to have been filed with this application. This argument is persuasive. In a divisional application filed under 1.53(b), an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c). A review of the application-as-filed reveals that the instant divisional application transmittal contained such a statement.

Accordingly, the petition is **DISMISSED**

The petition fee will not be refunded because there was no error on the part of the USPTO.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of August 2, 2001, using the application papers received in the Office on that date and pages 175-182 of the specification resubmitted on petition filed April 18, 2002. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Obviously, in view of the incorporation by reference in the prior application, pages 175-182 of the specification is not new matter if it was a part of the disclosure of the prior application. Applicants may file an amendment to include pages 175-182 of the specification without a petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

KNOBBE MARTENS OLSON & BEAR
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

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NOV 2 6 2001

OFFICE OF PETITIONS

In re Application of
Karl Erwin Meimer
Application No. 09/921,061
Filed: August 1, 2001
Attorney Docket No. TTLRCL.001A

DECISION ON PETITION

This is a decision on the paper styled "Request For Corrected Filing Receipt" filed October 5, 2001, requesting that the above-identified application be accorded a filing date of August 1, 2001, rather than the presently accorded filing date of August 3, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited in "Express Mail" service with the U.S. Postal Service on August 1, 2001, pursuant to the requirements of 37 CFR 1.10. While the Express Mail label No. EL842762570US shows a "date-in" of August 8, 2001, it also includes a "Horton Plaza San Diego CA USPS" stamp dated August 1, 2001. It is noted that the same Express Mail label number appears on the original transmittal letter found in the present application.

A search of the USPS Track and Confirm record confirms that the package in question was enroute on August 1, 2001. Accordingly, the petition is granted.

The application is being returned to Initial Patent Examination Division to await applicant's reply to the Notice mailed September 13, 2001, and for correction of the filing date to August 1, 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

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Paper No. 16

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE, 16TH FLOOR
ST LOUIS, MO 63102

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
Thomas E. Clemente et al :
Application No. 09/921,068 : ON PETITION
Filed: August 2, 2001 :
Attorney Docket No. UNL-2977.1 :

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 June 27, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 28, 2003.

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. See37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The file is being forwarded to Technology Center AU 1635.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: KENYON L. SCHUETT
9085 E. MINERAL CIRCLE, SUITE 200
CENTENNIAL, CO 80112

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ALEXANDRIA, VA 22313-1450
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OCT -9 2003

Paper No. 16

In re Application of
Steven A. Weiss *et al*
Application No. 09/921,076
Filed: August 2, 2001
Attorney Docket No. 31069-pa

: DECISION ON PETITION

This is a decision on the petition filed on September 2, 2003 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to timely file a reply to the Office letter dated November 20, 2002. No fee is required for the petition.

The petition is granted.

Petitioner alleges that the application is not abandoned because a reply to the Office letter in question was in fact filed, together with the appropriate petition for a three month extension of time and the fee therefor. The reply is in fact of record in the file, but has become separated from the extension of time paper and from the cover letter for the papers. However, petitioners have supplied copies of the papers filed on May 22, 2003, including the cover letter which has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated May 19, 2003. It is clear from the copies of the papers submitted with the petition, as well as from Office financial records showing receipt of the fees tendered with the papers, that this application is not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to examiner for action on the reply filed on May 22, 2003, certificate of mailing date May 19, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Bernhard Kreten, Esq.
Bernhard Kreten & Associates
300 Capitol Mail
Suite 1100
Sacramento, CA 95825

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Paper No. 25

Amin & Turocy LLP
1900 East 9th Street
24th Floor National City Center
Cleveland, OH 44114

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NOV 0 2 2004

OFFICE OF PETITIONS

In re Application of:	:	
James Cisar	:	DECISION ON PETITION
Appl. No. 09/921,103	:	UNDER 37 CFR 1.183
Filed: August 2, 2001	:	
Atty. Docket No. TELNP120USA	:	

This reissue application is before the Office of Patent Legal Administration, for consideration of the petition under 37 CFR 1.47(b), filed April 20, 2004. This petition is properly treated pursuant to 37 CFR 1.183.

Petitioner requests waiver of the rule (presumably §1.172) that requires that the inventor sign any supplemental declaration in a broadening reissue application.

The petition is dismissed.

BACKGROUND

37 CFR 1.172 requires that a reissue oath/declaration be made by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged.

This reissue application, which seeks to broaden the scope of the claims, was filed with signature of sole inventor James Cisar on the original declaration. A supplemental declaration under 37 CFR 1.175(b)(1) was required by the examiner in the Office action of August 12, 2003. A supplemental declaration, filed October 24, 2003, was not accepted by the examiner. *See* Office action mailed January 22, 2004.

In response, applicant filed the instant petition. The petition states that an executed Supplemental Reissue Application Declaration executed by Glenn Frankenberger on behalf of assignee Symbol Technologies, Inc. is enclosed. However, no such declaration was found among the papers received with the petition on April 20, 2004.

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR 1.175(b)(1) requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant."

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires a supplemental declaration to be signed by all of the inventors (in this instance, there is one inventor). This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of the inventors. *See In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999).

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested such a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by the inventor.

The instant petition is accompanied by an appropriate showing that the inventor is unavailable. A supplemental declaration, signed by the assignee may be accepted as though it was signed by the inventor as required by 37 CFR 1.175(b)(1) taken in conjunction with 37 CFR 1.172. However, the supplemental declaration, signed by assignee (corporate counsel) is not among the papers received April 20, 2004.

CONCLUSION

1. In view of the above, the present petition to waive 37 CFR 1.172 is dismissed.

2. A supplemental declaration under 37 CFR 1.175(b)(1), which may be signed by the assignee (pursuant to the above decision), is required to complete the petition and the application.

3. 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 would be titled "Renewed Petition under 37 CFR 1.183."

4. 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

5. Telephone inquiries related to this decision may be directed to Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

C:\Kiva|Kenpet5\09921103_183_inventor_unavailable_dism.wpd
11-1-04

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Paper No. 28

Amin & Turocy LLP
1900 East 9th Street
24th Floor National City Center
Cleveland, OH 44114

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APR 1 3 2005

OFFICE OF PETITIONS

In re Application of:	:	
James Cisar	:	DECISION ON PETITION
Appl. No. 09/921,103	:	UNDER 37 CFR 1.183
Filed: August 2, 2001	:	
Atty. Docket No. TELNP120USA	:	

This reissue application is before the Office of Patent Legal Administration, for consideration of the Renewed Petition Under 37 C.F.R. §1.183, filed January 6, 2005.

The petition is granted.

BACKGROUND

37 CFR 1.172 requires that a reissue oath/declaration be made by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged.

This reissue application, which seeks to broaden the scope of the claims, was filed with signature of sole inventor James Cisar on the original declaration. A supplemental declaration under 37 CFR 1.175(b)(1) was required by the examiner in the Office action of August 12, 2003. A supplemental declaration, filed October 24, 2003, was not accepted by the examiner. *See* Office action mailed January 22, 2004.

The initial petition filed April 20, 2004, was dismissed for failure to include a supplemental declaration under 37 CFR 1.175(b)(1). The petition stated that such a supplemental declaration was included; however, no such declaration was among the papers present on petition.

On instant renewed petition, petitioner submitted a copy of their itemized and date-stamped postcard receipt, showing that the supplemental declaration was among the papers filed on initial petition. In addition, petitioner submitted a copy of the supplemental declaration under 37 CFR 1.175(b)(1) signed by the assignee, a reissue patent application statement as to loss of original patent, and a statement under 37 CFR 3.73(b).

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR 1.175(b)(1) requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant."

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires a supplemental declaration to be signed by all of the inventors (in this instance, there is one inventor). This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of the inventors. *See In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999).

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested such a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by the inventor.

The initial petition was accompanied by an appropriate showing that the inventor is unavailable. On renewed petition, petitioner has now met the outstanding requirement for granting of the petition under § 1.183. A Supplemental Reissue Application Declaration executed by Glenn Frankenberger on behalf of assignee Symbol Technologies, Inc. has now been supplied. The declaration both includes a statement that Mr. Frankenberger is authorized to sign on behalf of the assignee and is accompanied by a STATEMENT UNDER 37 CFR 3.73(b).

CONCLUSION

1. In view of the above, the present petition under 37 CFR 1.183 to waive the rules is granted.

2. The provisions of 37 CFR 1.175(b)(1), and 37 CFR 1.172 are hereby waived to the extent that the "Supplemental Reissue Application Declaration by the Assignee" submitted with the present petition will be accepted as though it was signed by the inventors.

3. The present application is being forwarded within the Office of Patent Legal Administration for completion of the screening process pursuant to MPEP 1456, Reissue Review.

4. Telephone inquiries related to this decision may be directed to Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:042706

DATE : April 27, 2006

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 6,842,303

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:

See attached Decision under 37 CFR 3.24.

SPE: Andrea L. Wellington **Art Unit** 2652

PAGE 4/5 * RCVD AT 4/5/2006 1:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/11 * DNIS:2738300 * CSID:312 360 9315 * DURATION (mm-ss):01-32

PTO/SB/44 (02-01)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,842,303

DATED : January 11, 2005

INVENTOR(S) : Kazuhito Ichihara

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Issued Patent:

On the Face of the Patent (under inventors):

Delete "Hiroaki Ueno".

MAILING ADDRESS OF SENDER:
James K. Folker
GREER, BURNS & CRAIN, LTD.
300 South Wacker Drive, 25th Floor
Chicago, IL 60606

PATENT NO 6,842,303

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment 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.
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APR-05-2006 12:06 GREER, BURNS & CRAIN, LTD 312 360 9315 P.04

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United States Patent and Trademark Office
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Charles N.J. Ruggiero
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

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JUN 0 7 2006
OFFICE OF PETITIONS

In re Application of
Daniel J. Pisano Jr.
Application No.: 09/921,117
Filed: August 02, 2001
Attorney Docket No.: 2106.002USU
For: METHOD AND SYSTEM OF USING AN ELECTRONIC NETWORK TO PROVIDE OPTIONS TO PURCHASE GOODS OR SERVICES THROUGH A RETAILER

DECISION ON PETITION

This is a decision on the "Petition under 37 CFR 1.181 and 37 CFR 1.8 to Withdraw the Holding of Abandonment" and "Petition for Revival of Patent application Abandoned Unintentionally under 37 CFR 1.137(b)" filed February 16, 2006.

Applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 is **GRANTED** and the petition under 37 CFR 1.137(b) is dismissed as moot. The petition fee submitted with the petition to revive will be refunded to Deposit Account no. 01-0467.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed July 7, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, this application became abandoned at midnight on October 7, 2004.

Applicant states in their present petition that a response to the non-final Office action was received at the United States Patent and Trademark Office on December 10, 2004. A review of the present application reveals that the response to the non-final Office action filed December 10, 2004 is not located therein. The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. (See Manual of Patent Examining Procedure §503.) Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by application number, attorney docket number, and filing date. The receipt itemizes an amendment, request for extension of time, and a transmittal letter. The receipt is stamped "Rec'd. OIPE DEC 10, 2004" across its face is sufficient to indicate that a response to the non-final Office action was in fact received in the Office on December 10, 2004.

This application is being referred to Technology Center AU 3622.

Telephone inquiries concerning this decision should be directed to the undersigned.

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-6459

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

July 9, 2003

Melissa J. Pytel
Human Genome Sciences, Inc.
9410 Key West Ave.
Rockville, MD 20850

In re application of:
Timothy A. Colemen
Serial No.: 09/921,143
Filed: August 3, 2001
For: VASCULAR ENDOTHLIAL GROWTH FACTOR 2

DECISION ON PETITION

This is a decision on the petition received by fax on June 9, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed September 27, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned November 28, 2001.

On June 9, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice of Missing Parts on November 20, 2001.

The evidence submitted is sufficient to establish that the petitioners made an oversight in responding to the Notice of Missing Parts on November 20, 2001 forgetting the substitute drawing.

The petition is hereby Granted.

The Petition fee of $1,300 to revive an unintentionally abandoned application will be charged to deposit account 08-3425 to complete the above application.

The application has been completed for release to Technology Center 1653.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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APR 27 2006

OFFICE OF PETITIONS

In re Application of :
Timothy Coleman :
Application No. 09/921,143 :
Filed: August 3, 2001 :
Attorney Docket No. 1488.100000N/HCC/PAC :

ON PETITION

This is a decision on the petition, filed April 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 14, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1636 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

STERNE, KESSLER, GOLDSTEIN &
FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Timothy Coleman	:	
Application No. 09/921,143	:	LETTER REGARDING
Filed: August 3, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 1488.100000N	:	
/HCC/PAC	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed October 14, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred eighty-two (282) days to four hundred three (403) days.

On July 15, 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 282 days. On October 14, 2005, applicant timely[1] submitted the instant application for patent term adjustment.

However, prior to a decision on the application for patent term adjustment being rendered, on April 21, 2006, applicant filed a petition to withdraw from issue along with a request for continued examination (RCE). By decision mailed April 21, 2006, the withdrawal from issue was granted. Prosecution was reopened.

[1] PALM records indicate that the Issue Fee payment was received in the Office on October 14, 2005.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicant must submit a timely application for patent term adjustment in response to any new Notice of Allowance. An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice. A copy of this decision should accompany the application for patent term adjustment, along with a request to apply the fee set forth in 37 CFR 1.18(e) paid on October 14, 2005.

Technology Center AU 1636 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration of the RCE by the examiner.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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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OFFICE OF PETITIONS

In re Application of Timothy Coleman Application No. 09/921,143 Filed: August 3, 2001 Attorney Docket No. 1488.100000N/HCC/PAC	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 1, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\May10\921143.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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OFFICE OF PETITIONS

In re Application of	:	
Peter Ralph	:	DECISION ON APPLICATION
Application No. 09/921,161	:	FOR
Filed: August 1, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. GENENT.066A	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed June 23, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b)(3)(B)(i) be corrected from two hundred ninety-nine (299) days to five hundred seventy-two (572) 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 five hundred seventy-two (572) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 2, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 299 days. Applicant timely submitted the instant application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 572 days. Applicant disputes the reduction of 104 days associated with their filing of a response to the restriction requirement mailed October 3, 2003. Applicant states that the response was

originally received in the Office on October 30, 2003, and re-faxed with proof of original filing on April 16, 2004. Thus, applicant contends that the October 30, 2003 date, not the April 16, 2004 date, should be used in assessing applicant delay. Furthermore, applicant contends that given that the response was received on October 30, 2003, a period of adjustment of 205 days should be entered for Office delay in not taking action in response until September 21, 2004. In support thereof, applicant submits their return postcard receipt.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

Applicant is correct. Applicant's properly itemized postcard is *prima facie* evidence of receipt in the Office of an "Amendment and Response to Restriction Requirement" on the date stamped thereon by the Office of Initial Patent Examination, October 30, 2003. This was within the three-month period for response to the restriction requirement mailed October 3, 2003. Thus, the reduction of 104 days is not warranted. Further, applicant is correct that it is appropriate to use the original date of receipt of the election in determining Office delay. Thus, an additional period of adjustment of 205 days is warranted for the Office delay from March 1, 2004 to September 21, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred seventy-two (572) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The Office has, thereby, forwarded the file to the Office of Patent Publication so that a patent can be issued. The patent term adjustment indicated on the patent will include any additional patent term accrued for Office delay in issuing the patent after the issue fee had been paid and all outstanding requirements met.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application 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).

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : ~~9/25/06~~ 7/9/06

TO SPE OF : ART UNIT 1641

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/921161 Patent No.: 6984494B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

LONG V. LE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1641
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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October 20, 2004

TEXAS INSTRUMENTS INCORPORATED
PO Box 655474, M/S 3999
Dallas, TX 75265

In Re Application of
THEODORE W. HOUSTON : Withdrawal From Issue
Application No. 09/921,168 :
Filed: August 2, 2001 :
Title: SYSTEM AND METHOD FOR CONTROLLING
CURRENT IN AN INTEGRATED CIRCUIT

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Matthew Smith at (571) 272-1907.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

James L. Dwyer
Director, Technology Center 2800
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
711 LOUISIANA
SUITE 1900 SOUTH
HOUSTON TX 77002

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APR 0 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Walter T. Burke	:	
Application No. 09/921,170	:	DECISION GRANTING PETITION
Filed: 2 August, 2001	:	
Att'y Docket No. H052586.0003US0	:	

This is a decision on the petition filed on 4 February, 2002, requesting that the above-identified application be accorded a filing date of 2 August, 2001, with eight (8) sheets of drawings as a part of the original disclosure.

On 2 August, 2001, the application was filed.

On 15 November, 2001, Initial Patent Examination Division mailed a "Notice of Incomplete Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, on 4 February, 2002 (certificate of mailing date 10 January, 2002) *inter alia*, the present petition, a $130.00 petition fee, and four (4) sheets of drawings were filed.[1] Petitioner argues that "eight pages" of drawings were filed with the other application papers on 2 August, 2001, and that the drawings were misplaced in the U.S. Patent and Trademark Office

[1]The petition was accompanied by four (4) sheets containing drawings on both sides of the paper. Petitioner is reminded that only one side of each sheet may be used for drawings. 37 CFR 1.84(e).

(Office). In support of the petition, a copy of petitioner's postcard receipt which shows an Office stamp of 2 August, 2001, and the above-identified application number, and acknowledges receipt of, *inter alia*, drawings (8 pgs.) was supplied with the present petition. Petitioner has also supplied four (4) sheets of drawings. Each sheet of drawings has been printed on both sides, however, and each side of each sheet has been numbered sequentially, for a total of eight (8) pages. Petitioner requests that the application, including the "eight (8) pages" of drawings, be accorded a filing date of 2 August, 2001.

Upon review of the record, no sheets of drawings deposited on 2 August, 2001, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 8 August, 2001, included four sheets containing "eight (8) pages" of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the eight (8) pages of drawings, was complete on filing and entitled to a filing date of 2 August, 2001.

In view of the above, the petition is granted.

Petitioner is advised that only one side of each sheet may be used for drawings.[2] Petitioner must file corrected drawings in accordance with 37 CFR 1.84(e) when directed to do so.

The application will be processed for scanning with each side of the four (4) sheets containing drawings treated, for filing date purposes, as a separate "sheet", for a total of eight (8) sheets.

The petition fee $130.00 will be credited to counsel's deposit account, 16-2435.

The application is being returned to Initial Patent Examination Division for processing with a filing date of 2 August, 2001, using the application papers filed on that date, and the four sheets of paper containing eight (8) sheets of drawings supplied on 8 January, 2002, and for an indication on the bib-data sheet that eight (8) sheets of drawings were present on filing.

---

[2] See 37 CFR 1.84(e).

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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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUL 1 2003

#11

KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036

In re Application of	:
John F. Chiarello et al	:
Serial No.: 09/921,188	: PETITION DECISION
Filed: August 2, 2001	:
Attorney Docket No.: AM200074-00	:

This is a decision on the petition under 37 CFR 1.144, filed March 7, 2003, requesting review of a restriction requirement under 37 CFR 1.144.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 and contained 11 claims. A first examiner assigned to the application mailed a first Office action to applicants on November 15, 2002, setting forth a restriction requirement as follows:

> Group I, claims 1-9, drawn to a process for producing a chiral compound and the chiral compound *per se*;
> Group II, claims 10-11, drawn to a (different) chiral compound.

The examiner reasoned that Groups I and II were mutually exclusive species in an intermediate-final product relationship and that they were separate and distinct species, each having a utility and that the intermediate could be used to make other products. The examiner also stated that Groups I and II were related as product and process of use and that the process could be practiced with other products. Claim 11 was also indicated as directed to patentably distinct species and an election of species was required.

Applicants replied on December 16, 2002, electing Group I with traverse as to Group II based on the criteria that the examiner had not met the criteria for restriction. Specifically since the classification of the Groups significantly overlap, no serious burden is placed on the examiner to examine all claims. Further, the examiner was cited as not having met the burden of two-way distinctness for restriction between intermediate and final product..

The application was then transferred to a new examiner in a different Art Unit and the new examiner mailed an Office action to applicants on February 12, 2003. The examiner maintained

the restriction requirement stating that the examiner burden may be shown by different classification, separate status in the art or different search and that applicant had not provided evidence rebutting any of these criteria. The examiner also stated that the intermediate final product distinctness is shown by the intermediate being described as an insecticide in Elliott (4,137,324). The examiner made the requirement Final. The examiner then indicated claims 1-9 allowable

Applicants filed this petition on March 7, 2003, traversing the examiner's holding for essentially the same reasons as before.

DISCUSSION

Applicants recite the legal standard for restriction as set forth in 35 U.S.C. 121 and 37 CFR 1.142 protesting that the Office incorrectly interprets the statute which requires that inventions be independent and distinct (emphasis by applicants) by stating that the Office only requires that the inventions be independent or distinct (emphasis by applicants). However, applicants' argument has not been supported by any judicial authority and Office practice remains as stated. The only exception to this practice is where intermediates and final products are concerned.

With respect to the examiner's evidence of separate and independent utility of the intermediate applicants state that the reference used (Elliott) shows an intermediate which has insecticidal properties only when combined with chrysanthemic acid or other components. Thus the reference does not show the same compounds as intermediates and having a utility by themselves. Applicants are correct in their assertion. The intermediates of Group II claimed by applicants are not those of Elliott.

With respect to the burden on the examiner to examine all claims, applicants state that the examiner has failed to show any serious burden. Notably, the two Groups of claimed compounds are classified generally in the same classes and subclasses. Applicants complain that the examiner's use of "subclass various" masks, rather than demonstrates, differing classifications. Nor has the examiner shown any burden by showing a significantly different search or recognition in the art of separate status. Applicants are correct that the examiner has not met the criteria to show a serious burden on the examiner to examine all of the compounds.

In view of the above arguments by applicants and also in view of the fact that claims 6-9 are indicated as intermediates as are claims 10-11 (although in different parts of the reaction sequence), and that both intermediates contain the same chiral center, rejoinder of claims 10-11 with claims 1-9 is appropriate.

DECISION

Applicants' petition under 37 CFR 1.144 is **GRANTED.** Claims 1-11 will be examined together.

In view of the fact that the last Office action only finalized the restriction requirement and indicated the elected claims allowable and required cancellation of non-elected subject matter, and this decision withdraws the restriction requirement and voids the requirement to cancel non-elected subject matter, the last Office action is withdrawn. No reply thereto is required of applicants.

The application will be forwarded to the examiner for further consideration not inconsistent with this decision.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Philip S. Johnson
JOHNSON & JOHNSON
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
TURNER *et al* :
Application No.: 09/921,192 :
Filing Date: August 2, 2001 :
Docket No.: VTN-548 :
For: METHOD FOR COATING :
ARTICLES BY MOLD TRANSFER :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on March 17, 2006. The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed February 24, 2005, which set a shortened statutory period of reply of three (3) months.

The subject petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of a Request For Continued Examination (RCE), with fee and submission.

Accordingly, the reply to the final Office action of March 17, 2006 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1734.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper 5

George L. Boller
Suite 316
17199 North Laurel Park Drive
Livonia, MI 48152

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NOV 07 2002

OFFICE OF PETITIONS

In re Application of
Wilkins et al.
Application No. 09/921,208
Filed: August 3, 2001
Attorney Docket No. Case 9

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed October 11, 2002, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Corrected Application Papers which was mailed on September 7, 2001. The Notice to file Corrected Application Papers set a two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on November 8, 2001. 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**.

The Office acknowledges receipt of the corrected drawings submitted with the instant petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions
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. 12

Marc A. Sockol
SQUIRE, SANDERS & DEMPSEY L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043

In re Application of:	)	
Daniel J. Mendez	)	
Application No. 09/921,228	)	**DECISION ON REQUEST FOR**
Filed: August 01, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR TRANSMITTING WORKSPACE ELEMENTS ACROSS A NETWORK	)	

This is a decision on the Request To Withdraw from Representation filed December 4, 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 December 4, 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

ZM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Jinntung Su
MANATT, PHELPS & PHILLIPS LLP
1001 Page Mill Road, Building 2
Palo Alto, CA 94304

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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MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Daniel J. MENDEZ, et al	:	
Application No. 09/921,228	:	DECISION ON PETITION
Filed: August 1, 2001	:	TO WITHDRAW
Attorney Docket No. 7303967US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Manatt Phelps and Phillips has been revoked by the assignee of the patent application on March 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: SCOTT MCKEOWN
OBLON, SPIVAK, MCCELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314-3412

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

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MO 63102

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JAN 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
John Todd et al	:	
Application No. 09/921,230	:	DECISION GRANTING PETITION
Filed: August 1, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. MS#302405.4 (5023)	:	

This is a decision on the petition, filed January 10, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on April 30, 2002 and September 25, 2003. 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 May 1, 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 2177 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 4 2004

DCM

In re Application of Benjamin Mosier, et al. Serial Number: 09/921,238 Filed: August 2, 2001 For: TRANSESTERIFICATION COMPOSITION OF FATTY ACID ESTERS, AND USES THEREOF	: : : : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed April 23, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Constance Gall Rhebergen
BRACEWELL & PATTERSON, L. L. P.
P.O. Box 61389
Houston, TX 77208-1389

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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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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JUN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Warwick FORD	:	
Application No. 09/921,265	:	DECISION ON PETITION
Filed: August 1, 2001	:	TO WITHDRAW
Attorney Docket No. 21190-05339	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 8, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael W. Farn on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

There are no Office actions pending at the present time.

April Wise
Petitions Examiner
Office of Petitions

cc: WARWICK FORD
6 ELLERY SQUARE
CAMBRIDGE, MA 02138

cc: KENYON & KENYON
ATTN: GARY S. MORRIS, PARTNER
1500 K STREET, NW
WASHINGTON, DC 20005-1257

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/921,265	08/01/2001	Warwick Ford	21190-05339

CONFIRMATION NO. 8690

OC000000023595395

758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 04/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/08/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Diane Goodwin

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 13 2002

OFFICE OF PETITIONS

In re Application of :
Richard S. Cerami et al :
Application No. 09/921,274 : DECISION GRANTING STATUS
Filed: August 1, 2001 : UNDER 37 CFR 1.47(A)
For: LINKING ORDER ENTRY PROCESS TO :
REALTIME NETWORK INVENTORIES AND :
CAPACITIES :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 1, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2161 for examination in due course.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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TIMOTHY FIGUEROA
15231 EAST HIALEAH PLACE
AURORA, CO 80015

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MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of
Cerami; Figueroa; and Storaasli
Application No. 09/921,274
Filed: August 1, 2001
For: LINKING ORDER ENTRY PROCESS TO REALTIME NETWORK INVENTORIES AND CAPACITIES

Dear Mr. Figueroa:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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Paper No. 7

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 15 2002

OFFICE OF PETITIONS

In re Application of :
Cerami, et al. :
Application No. 09/921,275 :
Filed: August 1, 2001 : DECISION ACCORDING STATUS
Atty. Dkt. No. 020366-077710US : UNDER 37 CFR 1.47(a)
For: PROACTIVE SERVICE REQUEST :
MANAGEMENT AND MEASUREMENT :

This is in response to the petition under 37 CFR 1.47(a), filed February 1, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations of Chad S. Hilyard and Brian N. Young sufficiently establish that the inventor received the application papers and refused to execute the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for issuance of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of Cerami, et al. Application No. 09/921,276 Filed: August 1, 2001 Atty. Dkt. No. 020366-077510US For: FAULT MANAGEMENT IN A VDSL NETWORK	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 1, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations of Chad S. Hilyard and Brian N. Young sufficiently establish that the inventor received the application papers and refused to execute the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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AURORA, COLORADO 80015

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MAY 1 0 2002
OFFICE OF PETITIONS

In re Application of Cerami, et al. Application No. 09/921,276 Filed: August 1, 2001 Atty. Dkt. No. 020366-077510US For: FAULT MANAGEMENT IN A VDSL NETWORK	:	LETTER

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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Paper No. 8

TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 15 2002

OFFICE OF PETITIONS

In re Application of	:	
Richard S. Cerami et al	:	
Application No. 09/921,277	:	DECISION GRANTING STATUS
Filed: August 1, 2001	:	UNDER 37 CFR 1.47(A)
For: FAULT MANAGEMENT IN A VDSL	:	
NETWORK	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 1, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2171 for examination in due course.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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TIMOTHY FIGUEROA
15231 EAST HIALEAH PLACE
AURORA, CO 80015

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OFFICE OF PETITIONS

In re Application of
Cerami; Figueroa; and Storaasli
Application No. 09/921,277
Filed: August 1, 2001
For: FAULT MANAGEMENT IN A VDSL NETWORK

Dear Mr. Figueroa:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

September 24, 2003

Allan A. Fanucci
Winston & Strawn
200 Park Ave.
New York, NY 10166-4193

In re application of:
Avner Yayon et al DECISION ON PETITION
Serial No.: 09/921,279
Filed: August 2, 2001
For: A SCREEING ASSAY FOR ANTAGONISTS OF FGFRMEDIATED MALIGNANT CELL TRANSFORMATION AND TUMOR FORMATION

This is a decision on the petition received on February 4, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed September 17, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned November 20, 200l.

On February 4, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice of Missing Parts mailed September 17, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice of Missing Parts mailed September 17, 2001.

The petition is hereby Granted.

The application will be completed with the documents received February 4, 2003 and released to Technology Center 1632.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAR 2 2 2002

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of Cerami, et al. Application No. 09/921,282 Filed: August 1, 2001 Atty. Dkt. No. 020366-077210 For: MANAGEMENT OF VIRTUAL AND PHYSICAL NETWORK INVENTORIES	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 1, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations of Chad S. Hilyard and Brian N. Young sufficiently establish that the inventor received the application papers and refused to execute the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for issuance of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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TIMOTHY FIGUEROA
15231 EAST HIALEAH PLACE
AURORA, COLORADO 80015

In re Application of
Cerami, et al.
Application No. 09/921,282
Filed: August 1, 2001
Atty. Dkt. No. 020366-077210
For: MANAGEMENT OF VIRTUAL AND PHYSICAL NETWORK INVENTORIES

LETTER

COPY MAILED

MAR 2 2 2002

OFFICE OF PETITIONS

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-0382 (outside the Washington D.C. area).

Beverly M. Flanagan, Esq. for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Cerami et al.	:	
Application No. 09/921,282	:	ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. 020366-072210US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 16, 2008, 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.

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(s) (1). The Office acknowledges receipt of the Issue Fee Transmittal with payment of the issue and publication fees. However, the Notice of Allowability, mailed June 17, 2008, also required submission of corrected drawings.

Further correspondence with respect to this matter should be addressed as follows:

---

[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).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Cerami et al.	:	
Application No. 09/921,282	:	ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. 020366-077210US	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies all of the requirements of 37 CFR 1.137(b) in that petitioner has supplied the Corrected Drawings as required by the Notice of Allowability.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Richard S. Cerami et al	:	
Application No. 09/921,283	:	DECISION GRANTING STATUS
Filed: August 1, 2001	:	UNDER 37 CFR 1.47(A)
For: PROACTIVE REPAIR PROCESS IN	:	
THE XDSL NETWORK (WITH A VDSL	:	
FOCUS)	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 1, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2184 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

TIMOTHY FIGUEROA
15231 EAST HIALEAH PLACE
AURORA, CO 80015

COPY MAILED

MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of
Cerami; Figueroa; and Storaasli
Application No. 09/921,283
Filed: August 1, 2001
For: PROACTIVE REPAIR PROCESS IN THE XDSL NETWORK (WITH A VDSL FOCUS)

Dear Mr. Figueroa:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 9

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 1 5 2002

OFFICE OF PETITIONS

In re Application of Richard S. Cerami et al Application No. 09/921,285 Filed: August 1, 2001 For: PROVISIONING SYSTEM AND METHOD FOR AUTO-DISCOVERING CUSTOMER PREMISES EQUIPMENT IN ACTIVATING XDSL	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 1, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2161 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:	
David M. Goldenberg	:	
Serial No.: 09/921,290	:	WITHDRAWAL OF ATTORNEY
Filed: August 3, 2001	:	
Attorney Docket No.: 018733-1012	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of	:
Richard S. Cerami et al	:
Application No. 09/921,294	: DECISION GRANTING STATUS
Filed: August 1, 2001	: UNDER 37 CFR 1.47(A)
For: PERFORMANCE MODELING IN A VDSL	:
NETWORK	:

This is in response to the "Petition Under 37 CFR 1.47(a)," filed February 7, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2151 for examination in due course.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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TIMOTHY FIGUEROA
15231 EAST HIALEAH PLACE
AURORA, CO 80015

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MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of
Cerami; Figueroa; and Storaasli
Application No. 09/921,294
Filed: August 1, 2001
For: PERFORMANCE MODELING IN A VDSL NETWORK

Dear Mr. Figueroa:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
TOWNSEND & TOWNSEND & CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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

TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

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FEB 5 2002

OFFICE OF PETITIONS

In re Application of
Kelvin T. Lueng, Son Dao and
Eddie Shek
Application No. 09/921,296
Filed: August 2, 2001
Attorney Docket No. HRL069
For: APPARATUS AND METHOD FOR CONTEXT-SENSITIVE DYNAMIC INFORMATION SERVICE COMPOSITION VIA MOBILE AND WIRELESS NETWORK COMMUNICATION

DECISION REFUSING

STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition, filed November 14, 2001, for "acceptance of the declarations for this application without the signature of Kelvin Leung, whose most recent known address is entered into the declaration form." This petition is properly considered under 37 CFR 1.47(a).

The petition is **dismissed** as untimely. The period for response continues to run from the mailing date of the "Notice to File Missing Parts of Application" mailed September 10, 2001. This decision is made without prejudice to reconsideration upon the timely and proper filing of a petition for an extension of time for response. This petition must be filed prior to expiration of the maximum extendable period for reply, on April 10, 2002[1]. **Failure to file a timely and proper response will result in abandonment of the application.**

The above-identified application was filed on August 2, 2001, naming Kelvin T. Lueng, Son Dao and Eddie Shek as joint inventors but without an executed oath or declaration. Accordingly, on September 10, 2001, applicants were mailed a "Notice to File Missing Parts of Application," requiring a properly executed oath or declaration and a surcharge for late filing. In addition, the Notice requested the filing of the missing statutory basic filing fee and additional claim fees for 2 total claims over 20. This Notice set a period for reply of two months from the mailing date of the notice to November 13, 2001 (November 10, 2001 was a Saturday, and November 12, 2001 was a federal holiday).

On November 14, 2001, applicant filed the instant petition. The petition was filed by Express Mail[2] and was stamped as received in the Office of Initial Patent Examination on November 14, 2001

---

[1] Unless specifically limited, the TWO-MONTH period for filing a response to a Notice to File Missing Parts of Application may be extended for up to five months. See 37 CFR 1.136.

[2] The paper was accorded the November 14, 2001 as a date of receipt in the Office. However, it is not clear that the paper is even entitled to that date as applicant did not comply with the provisions of §1.10. The Express Mail Label Number is on the fee transmittal, but not on the petition.

consistent with the date-in on the Express Mail label. However, the petition was not made timely by an accompanying petition for an extension of time. A review of the record reveals that it does not include a constructive petition for an extension of time. The interruptions in mail service affecting the USPTO in November 2001 were considered and determined not to be a factor in the late submission of this response. Accordingly, the response filed November 14, 2001 must be dismissed as untimely.

Applicants are further advised that a grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor in the petition. Applicants are encouraged to further review the petition filed November 14, 2001 for compliance with the requirements of §1.47(a) in light of the guidance set forth in MPEP 409.03, Rev. Aug 1., 2001.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson 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
www.uspto.gov

Paper No. 10

Cary Tope-McKay
23852 Pacific Coast Highway #311
Malibu, CA 90265

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DEC 1 8 2002

OFFICE OF PETITIONS

In re Application of :
Lueng et al. :
Application No. 09/921,296 : ON PETITION
Filed: August 2, 2001 :
Attorney Docket No. HRL069 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2002, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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.
09/921,344	08/02/2001	Sherwood G. Talbert	12524	6020

7590 09/14/2004

Klaus H. Wiesmann
Battelle Memorial Institute
505 King Avenue
Columbus, OH 43201-2693

EXAMINER
HOEY, BETSEY MORRISON

ART UNIT	PAPER NUMBER
1724	

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed:

Paper No. _____

In re Application of
Talbert, Sherwood G. et al.
Serial No.: 09/921,344
Filed: August 02,2001

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: Thermal Water Treatment

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSONS WHO ARE NOT INVENTORS OF INVENTION NOW BEING CLAIMED) filed June 06, 2004 to correct inventorship under 37 CFR 1.48(b) by deleting the names of Jean E. Schelhorn from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

DUANE SMITH
SUPERVISORY PATENT EXAMINER

Duane S. Smith
Supervisory Patent Examiner
Art Unit 1724
Technology Center 1700

9-10-04

Klaus H. Weismann
Battelle Memorial Institute
505 King Avenue
Columbus, Ohio 43201-2693

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 19 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

In re Application of
Brent R. Collyer et al.
Application No. 09/921,359
Filed: August 02, 2001
For: GROOVED OR RIBBED BUSHING AND MATING GROOVED OR RIBBED BUSHING RECEIVING BORE INCLUDED WITHIN A SUSPENSION COMPONENT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on June 10, 2005.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated _____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____, 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 _____.

☒ Originally sent response, received May 27, 2005 with a Certificate of Mailing dated May 23, 2005 and a petition for a three-month extension of time.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

RAR/rjc: 09/23/05

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
DIW 03-04

Paper No. 5

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE IL 60048-5343

COPY MAILED

MAR 1 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael D. Kotzin :
Application No. 09/921,392 :
Filed: 2 August, 2001 :
Attorney Docket No. CS10466 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 8 December, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 26 November, 2001, for failure to timely file an executed oath or declaration, and a surcharge for its late filing, as required by the Notice of Allowability mailed on 25 September, 2001, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on 29 November, 2003.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition fee will be charged to counsel's deposit account, No. 50-2117, as authorized in the present petition. Additionally, the fee transmittal sheet dated 2 August, 2001, a copy of which is attached to the present petition, will be construed as an authorization to charge to counsel's deposit account No. 13-4768, the late-filing surcharge as required by the Notice to File Missing Parts.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

Texas Instruments Incorporated
P. O. Box 655474
M/S 3999
Dallas, TX 75265

COPY MAILED

MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Sudhir K. Madan :
Application No. 09/921,394 :
Filed: August 2, 2001 :
Attorney Docket No. TI-30841 :

ON PETITION

This is a decision on the "Petition to Revive Abandoned Application under 37 C.F.R. §1.137(a) or in the alternative under 37 C.F.R. §1.137(b)," filed February 24, 2004, which is being treated solely as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

Since petitioner has not provided a showing as to the cause of unavoidable delay and has not provided a statement attesting that the delay in filing a reply was unavoidable, the petition under 37 CFR 1.137(a) has not been considered. Accordingly, the petition fee of $110 has not been charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2800.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090603

DATE : May 29, 2009

TO SPE OF : ART UNIT 2718

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/921394 /7087493

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Steven Loke
SPE

2818
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Norman P. Soloway
HAYES, SOLOWAY, HENNESSEY, GROSSMAN & HAGE, P.C.
130 W. Cushing Street
Tucson AZ 85701

COPY MAILED

DEC 0 5 2002

OFFICE OF PETITIONS

Applicant: Blum et al.
Appl. No.: 09/921,402
Filing Date: August 2, 2001
Title: METHOD FOR SECURE DATA TRANSMISSION IN SELLING PRODUCTS
Attorney Docket No.: PRINZ H1768
Pub. No.: US 2002/0057801
Pub. Date: May 16, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on July 15, 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Lewis s. Ostrover	:	
Application No. 09/921,420	:	ON PETITION
Filed: August 2, 2001	:	
Attorney Docket No. 3053-041	:	

This is a decision on the petition, filed February 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 22, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2621 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

Kevin P. Weldon
Kennametal Inc.
PO Box 231
Latrobe, PA 15650

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NOV 2 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Robert W. Britzke	:	
Application No. 09/921,430	:	ON PETITION
Filed: August 2, 2001	:	
Attorney Docket No. KG-1804	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Non-Final Office action mailed January 9, 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 10, 2003.

The application file is being forwarded to Technology Center AU 3725.

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
WASHINGTON, D.C. 20231
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Paper No. 6

CARLSON GASKEY 7 OLDS
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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OCT 2 6 2001

OFFICE OF PETITIONS

In re Application of Gurbinder Singh Kalsi et al Application No. 09/921,439 Filed: August 2, 2001 Attorney Docket No. 60130-1179 00MRA0557	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed October 3, 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 August 2, 2001, rather than the presently accorded filing date of August 3, 2001.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on August 2, 2001. The petition is accompanied by, inter alia, a copy of the USPS Track/Confirm system information showing that the package bearing Express Mail label No. EL747233656US was enroute on August 2, 2001. The same Express Mail receipt number was referred to in the copy of the original transmittal letter found in the present application.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on August 2, 2001.

The petition is granted.

Receipt is acknowledged of the statutory basic filing fee, declaration, and priority document filed October 9, 2001, in response to the Notice mailed September 10, 2001.

The application is being returned to Initial Patent Examination Division for correction of the filing date to August 2, 2001.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Douglas W. Swartz
Sheridan Ross, P.C.
1560 Broadway, Suite 1200
Denver, CO 80202

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MAY 1 5 2006

OFFICE OF PETITIONS

In re Application of	:	
HONG, et al.	:	DECISION ON PETITION
Application No.: 09/921,458	:	
Filed: August 3, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 4366-40	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 21, 2005, which set a shortened statutory period for reply of three (3) months. While a timely reply was filed on August 18, 2005, that reply did not prima facie place this application in condition for allowance as indicated in the Advisory Action mailed January 11, 2006. No extensions of time under provisions of 37 CFR 1.136(a) were obtained and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on September 22, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 21, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 2154.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 14

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of
David Marshall et al
Application No. 09/921,471
Filed: August 3, 2001
Attorney Docket No. 10014782-1

ON PETITION

This is a decision on the petition, filed by facsimile transmision on August 7, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 19, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 should be directed to the undersigned at (703) 305-8859.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2816 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
KLAAS, LAW, O'MEARA & MALKIN, P.C.
1999 BROADWAY, SUITE 2225
DENVER, COLORADO 80202

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

JUNG-HUA KUO
P.O. BOX 3275
LOS ALTOS, CA 94024

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NOV 0 8 2001
OFFICE OF PETITIONS

In re Application of
Victor Kouznetsov et al.
Application No. 09/921,521
Filed: August 2, 2001
Attorney Docket No. NETAP010

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 1, 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. A corrected filing receipt accompanies this decision.

This file is being forwarded to Technology Center AU 2152 for examination in due course.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

Paper No. 3

JUNG-HUA KUO
ATTORNEY AT LAW
PO BOX 3275
LOS ALTOS, CA 94024

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DEC 1 4 2001

OFFICE OF PETITIONS

In re Application of
Kouznetsov et al.
Application No. 09/921,543
Filed: 2 June, 2001
Attorney Docket No. NETAP008

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on 1 October, 2001, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Victor Kouznetsov
2. Charles L. Vigue
3. Martin Fallenstedt
4. Daniel Melchione

This application is being forwarded to Technology Center 2100 via Application Branch Data Input to change the order of inventorship.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 10

SILICON VALLEY IP GROUP
P O BOX 721120
SAN JOSE, CA 95172-1120

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JUN 1 0 2003

OFFICE OF PETITIONS

In re Application of Charles L. Vigue et al Application No. 09/921,543 Filed: August 2, 2001 Attorney Docket No. NETAP008	DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on May 12, 2003, which is being treated as a petition under 37 CFR 1.137(f) to revive the instant nonprovisional application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be filed within TWO MONTHS from the mail date of this decision. Extensions of time are available pursuant to the provisions of 37 CFR 1.136(a).

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country "on or slightly before the one-year-anniversary of the U.S. filing date" of this application.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition fails to comply with item (1) above. More specifically, while notification has been given of the foreign filing, the petition fails to state the date of such foreign filing. Accordingly, the date of foreign filing must be supplied in order to grant the revival of the instant application.

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

Pursuant to petitioner's authorization, Deposit Account No.50-1217 was charged $1300.00 for the petition to revive an unintentionally abandoned application under 37 CFR 1.137(f).

Any questions concerning this matter 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

UNITED STATES 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

SILICON VALLEY IP GROUP
P.O. BOX 721120
SAN JOSE, CA 95172-1120

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JUL 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Charles L. Vigue et al :
Application No. 09/921,543 : DECISION ON PETITION
Filed: August 2, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. NAI1P275/ :
01.014.01 :

This is a decision on the renewed petition under 37 CFR 1.137(f), filed by facsimile transmission on July 10, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on April 2, 5, and 8, 2002. A review of the file record discloses that a Notice to Rescind was received in the USPTO on February 15, 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. 50-1351 as authorized.

This application is being forwarded to Technology Center AU 2132 for examination in due course.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

Philip John Martin
6, The Manwarings
Horsmonden
Tonbridge, KENT
TN 12 8 NQ
UNITED KINGDOM

MAIL

AUG 0 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Philip John Martin
Application No. 09/921,552
Filed: 08/06/2001
For: TAG AND RECEIVER SYSTEMS

DECISION ON PETITION

This decision is responsive to the request filed December 6, 2001 (duplicate copies filed January 15, 2002 and March 28, 2002) to "unconditionally withdraw" the above-identified application to ensure that the application does not publish.

Applicant may request that an application not be published if the applicant certifies that the invention has not been and will not be the subject of an application filed in another country (or under international agreement) that requires eighteen month publication. The request for non-publication must be made at the time of filing the application and must be conspicuous in accordance with 35 USC 122(b)(2)(B)(i). Applicant failed to provide a request for non-publication in accordance with 35 USC 122(b)(2)(B)(i) at the time of filing the instant application and therefore the instant application became subject to publication.

An applicant seeking to abandon an application to avoid publication of the application must submit a declaration of express abandonment by way of petition under 37 CFR 1.138(c), including the fee set forth in 37 CFR 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process. In the instant application, applicant filed a request "to unconditionally withdraw" the application, but did not submit the required declaration of "express abandonment" by way of petition under 37 CFR 1.138(c) and did not include the necessary fee. Accordingly the instant application was published on March 28, 2002.

The request is **DISMISSED**.

The application is being returned to TC 2600 central files to await action by the examiner.

Jin F. Ng, Director
Technology Center 2600
(703) 305-4800

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

COPY MAILED
JUL 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Slage, et. al.	:	DECISION ON REQUEST
Application No. 09/921,595	:	TO WITHDRAW FROM
Filed: August 6, 2001	:	RECORD
Attorney Docket No. A7949	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 CFR § 10.40 filed on April 4, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 CFR § 1.136(a).

The request was signed by Richard C. Turner on behalf of all the attorneys/agents of record.

Richard C. Turner and all the attorneys/agents of record have been withdrawn. Therefore, applicant is reminded that there are no attorneys/agents of record at this time.

The request to change the correspondence address of record is acceptable. Therefore, all future communications from the Office will be directed to the first named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed February 24, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Ms. Irena Slage
Firelogic, Inc.
1776 I Street, NW – Suite 900
Washington, DC 20006

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

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/21/2010

Applicant	: Anshul Amar	: DECISION ON REQUEST FOR
Patent Number	: 7617116	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/921,654	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1262** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MARIETTA GA 30007-1355

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OFFICE OF PETITIONS

In re Application of	:	
Kirkpatrick et al.	:	
Application No. 09/921,658	:	DECISION ON
Filed: August 6, 2001	:	PETITION
Attorney Docket No. BS00-311	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed November 26, 2007.

The above-identified application became abandoned for failure to timely pay the issue fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed June 5, 2006. A courtesy Notice of Abandonment was mailed on October 9, 2006.

On instant petition, petitioner requests withdrawal of the holding of abandonment based on failure to receive the most recent Office action (both the Notice of Allowance and the subsequently mailed Notice of Abandonment). Petitioner states that the Office action was mailed to the address of the previous law firm despite a power of attorney with change of correspondence address that was filed and received by the Patent Office in August of 2004.

A review of the record confirms that on August 27, 2004, a Power of Attorney and Correspondence Address Indication form was filed by the assignee, along with a properly completed 3.73(b) statement. However, the change of attorney and address were never processed by the Office. No subsequent paper was filed in this application affecting either the attorney or address of record. This evidence supports a conclusion that the Notice of

Allowance was mailed to an incorrect address. Under the circumstances, withdrawal of the holding of abandonment is warranted.

In view thereof, the notice of abandonment mailed October 9, 2006 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The attorney and address of record have been corrected. However, it is noted that pursuant to the request made on petition both the attorney of record and correspondence address have been changed to CUSTOMER NUMBER 45695. Accordingly, attorneys Jennifer Medlin and Matthew Todd Mitchem noted on the power of attorney filed August 27, 2004 are not of record in this application as they are not attorneys identified under CUSTOMER NUMBER 45695.

Technology Center AU 2173 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the Notice of Allowance and Fee(s) Due (and the Notice of Allowability) mailed June 5, 2006 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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 22 2005

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Avenue, N.W., Suite 600
Washington DC 20036-5339

In re Application of K. Fukuda et al. Application No. 09/921,705 Filed: August 6, 2001 For: PARTS-MAINTENANCE MATERIALS RETRIEVING SYSTEM AND SERVER, USER TERMINAL AND RECORD MEDIUM FOR THE SYSTEM	*SUA SPONTE* WITHDRAWL OF HOLDING OF ABANDONMENT

A review of the application file reveals that a Notice of Abandonment mailed June 16, 2005, specified that the application had become abandoned because the Office had received no reply to the Restriction/Election mailed October 28, 2004 in which a one-month statutory period for response was given.

A review of the record indicates that a timely filed election was received on November 22, 2004. Thus abandonment was premature.

Because the abandonment of June 16, 2005 was premature, the abandonment is hereby withdrawn *sua sponte*.

The Office apologizes for the erroneous Notice of Abandonment.

The application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment and restore the application to pending status, before being returned to the examiner for an expeditious Action.

Kenneth J. Dorner,
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/rjc: 07/06/05

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JUL 19 2004

In re Application of
Justin M. Smyers *et al*
Application No. 09/921,762
Filed: August 3, 2001
Attorney Docket No. RPC 0575 PUS

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on July 9, 2004 by which petitioner requests withdrawal of the examiner's holding that the appeal brief filed on April 5, 2004 does not comply with 37 CFR 1.192(c)(6) for failing to contain a concise statement of the issues on appeal and for referring to the use of the color red for drawings that appear in the appeal brief. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

A review of the record shows that the examiner's holding is arbitrary, capricious, and an abuse of discretion for the reasons set forth in the section of the petition entitled "Argument and Request for Relief." Nothing in the appeal brief appears to violate 37 CFR 1.192(c).

The application is being returned to the Supervisory Patent Examiner for Art Unit 3727 who will forward the application to the examiner for immediate action on the appeal brief. Such action shall not be inconsistent with this Decision.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Konstantine J. Diamond
4010 E. 26th Street
Los Angeles, CA 90023

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JJGJR.: 02-06

Paper No: __

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FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
McAdams	:	
Application No. 09/921,841	:	DECISION ON PETITION
Filing Date: 2 August, 2001	:	
Attorney Docket No. BEA920010012US1	:	

This is a decision on the petition filed on 25 October, 2005, to revive the instant application alternatively under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay or 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(a) is **DISMISSED**, and 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 19 October, 2004, with reply due absent extension of time on or before 19 January, 2005;

- on 15 December, 2004, Petitioner filed an after-final amendment, which the Examiner found was not a proper reply (in that it did not *prima facie* place the application in condition for allowance[1]), and on 29 March, 2005, the Examiner mailed an Advisory Action;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or RCE (with fee and submission). (See: MPEP §711.03(c).)

- Petitioner avers that he filed a further after-final on 19 April, 2005, however, the clear indication is that despite the Certificate of FAX Transmittal indicating such a date, the clear evidence on the face of the filing is a FAX date of 20 April, 2005–moreover, the Examiner found that this amendment, too, was not a proper reply,[2] and, on 30 September, 2005, the Examiner mailed an Advisory Action and it does not appear that Petitioner had requested and paid the fee for an extension of time;

- Petitioner alleges that he had an expectation of a new final rejection, however, as one registered to practice before the Office Petitioner is well aware that no after-final amendment is as of right;

- with the instant petitions, Petitioner submits the respective fees, and a reply in the form of a request for continued examination (RCE) under 37 C.F.R. §1.114 with fee and submission, however–while Petitioner has made the statement of unintentional delay under 37 C.F.R. §1.137(b)–the showing of unavoidable delay under 37 C.F.R. §1.137(a) is, as indicated above, wholly insufficient.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

---

[2] The proper response to the final Office action (see: MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegation as to Unavoidable Delay

A grantable petition under 37 C.F.R. §1.137(a) requires a petition, fee, showing of unintentional delay to the satisfaction of the Director, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner has not satisfied the showing requirement of the regulation.

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner has provided a petition, fee, reply and statement as required by regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(a) is **dismissed**, and the petition under 37 C.F.R. §1.137(b) is **granted**.

---

[5] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[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.

The instant application is released to Technology Center 2100 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Martin & Ferraro, LLP
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Hartville, OH 44632

Paper No.

JAN 20 2005

In re Application of Gary K. Michelson Serial No. : 09/921,844 Filed : August 3, 2001 For : Spinal Implant Surface Configuration	DECISION ON PETITION UNDER 37 CFR 1.181(a)

This is a decision on the petition under 37 CFR 1.181(a) filed June 22, 2004 for Supervisory Review of the final rejection mailed January 7, 2004 and the advisory action mailed April 23, 2004. There is no fee required for this petition.

Background

A restriction requirement was mailed October 28, 2002 listing six (6) patentably distinct species of the claimed invention and required applicant to elect a single disclosed species. The examiner identified the distinct species as: Species 1 – figure 4; Species 2 – figure 8; Species 3 – figure 12; Species 4 – figure 16; Species 5 – figure 19B; and Species 6 – figure 20.

Applicant filed a reply to the restriction requirement on April 8, 2003 electing to prosecute the claims that were drawn to species 3, Figs 12-15. Applicant amended some claims and presented some new claims as well. Further, as required, applicant provided a list of the claims that read on the elected species. Applicant traversed the restriction requirement to the extent that it failed to identify any linking claims and proceeded to identify those claims he considered to be linking claims.

An Office action was mailed April 23, 2003 in which the examiner: acknowledged the election; considered the traversal but did not find it persuasive as it did "not address the basis of a species requirement"; made the restriction requirement final; rejected some claims under 35 USC 112, some under 35 USC 102, and others under 35 USC 103; and objected to the drawings under 37 CFR 1.83(a) as not showing some of the claimed features.

On October 9, 2003 applicant filed a response that cancelled some claims, added new ones and amended the specification, drawings, and some of the claims.

On January 7, 2004 a final Office action was mailed with the examiner: (a) listing some claims as being withdrawn from consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species and informing applicant that a complete response to the final must include a cancellation of these claims; (b)

objecting to the specification as including new matter; (c) objecting to the drawings under 37 CFR 1.83(a); (d) rejecting claims under 35 USC 112, 35 USC 102 and 35 USC 103; and (e) answering applicants arguments.

On March 26, 2004, applicant filed a paper requesting rejoinder of the claims that the examiner had indicated withdrawn as being drawn to a nonelected species, and withdrawal of the finality of the previous Office action.

An advisory action was mailed April 23, 2004 informing applicant that the finality of the previous Office action was proper and that the request for rejoinder of the claims was not deemed persuasive.

On June 22, 2004 the instant petition was filed.

Discussion

Petitioner specifically requests: (1) withdrawal of the finality of the Office action mailed January 7, 2004; (2) the rejoinder of claims improperly withdrawn by the examiner as being drawn to a nonelected species; and (3) that the examiner's requirement that applicant cancel elected claims that the examiner has improperly characterized as nonelected claims made in the final Office action be rescinded.

A. Propriety of the Finality of the Office action mailed January 7, 2004.

Section 706.07(a) of the Manual of Patent Examining Procedure (MPEP), Revision 2 dated May 2004, discuses the guidelines to be followed when making an Office action final. The MPEP indicates that an action may be made final on a second action "except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)".

In the final Office action of January 7, 2004, claims 43 and 247 (dependent from claims 1 and 219, respectively) were rejected under 35 USC 112, second paragraph, indicating that the limitation "motion preserving device" caused the claims to be indefinite. The amendment filed October 9, 2003, to which the final Office action is responsive to, did not amend claims 43 and 247. The amendment of October 9, 2003 did make changes to claims 1 and 219 but in areas totally unrelated to the limitation of claims 43 and 247 noted above that the examiner feels renders the claims indefinite. The amendment of October 9, 2003 dealt with the phrases "bone engaging structures" and "surface projections", as the examiner had questioned in the Office action of April 23, 2003 if there were any differences between the two elements. Claims 43 and 247 deal with the overall structure and function of the device rather than a specific surface configuration.

Accordingly, as the subject matter of claims 43 and 247 was not affected by the amendment filed October 9, 2003, the new ground of rejection of claims 43 and 247 was not necessitated by applicant's amendment and therefore, the making of the Office action final was premature.

Thus, the petition to withdraw the finality of the Office action mailed January 7, 2004 is **GRANTED**.

B. Propriety of the holding of some claims withdrawn as being drawn to a nonelected invention as well as the requirement to cancel these claims.

Applicant submits that the examiner improperly withdrew from consideration claims 131, 133, 135, 137-145, 205, 206, 213-215, and 272-276 (hereinafter "the claims in question") in the final Office action for at least one of the following grounds: (1) the examiner had previously confirmed that the claims in question did read on the elected species; (2) the claims in question include a feature that distinguishes the elected species from other species; and (3) the examiner's rationale for withdrawing the claims is not applicable in view of the restriction requirement of record.

It is noted that in response to the restriction requirement mailed October 28, 2002, applicant indicated that claims 131, 133, 135, 137-145, 205, 206, and 213-215 read on the elected species (see page 1 of the amendment filed April 8, 2003 as well as page 12). The examiner, by the treatment on the merits of the claims in question in the Office action mailed April 23, 2003, in essence, agreed that the claims in question read on the elected species. However, the examiner, in the next Office action, the final action mailed January 7, 2004 withdrew the claims in question from consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected embodiment indicating that the elected embodiment shown in figures 12-15 has left and right facets that are identical and therefore, the left facet is not steeper than the right facet as recited in claim 131.

The feature that differentiates species 3 from all other species is the fact that the surface projections include an angle greater than 90 degrees. This feature is in independent claim 131 (all other of the claims in question depend, directly or indirectly from claim 131) and was added by the amendment filed October 29, 2003. The feature that the examiner relies on in the final Office action to base his assertion that the claims are drawn to a nonelected embodiment has been present in claim 131 from the beginning. What the examiner appears to have failed to realize is that the orientation of the surface projections in claim 131 are rotated 90 degrees with respect to that of all other disclosed embodiments. That is, what is front and rear in all other embodiments is right and left, respectively, in claim 131. Similarly, right and left are front and rear, respectively, in claim 131. Disregarding for a moment the orientation of the surface projections, the shape of the surface projections recited in claim 131 is generic to all embodiments. That is, each surface projection has two facets, each facet having a length and a slope, wherein the first facet is longer than the second facet and the slope of the second facet being steeper than the slope of the first facet.

Thus, the reason given for withdrawing from consideration the claims in question as being drawn to a nonelected embodiment, that is, the orientation of the surface projections, is not applicable as it was not indicated, in the election of species requirement mailed October 28, 2002, as one of the patentably distinct species from which applicant was required to pick from. Accordingly, in view of the above, it is determined that in the Office action mailed January 7, 2004, the examiner improperly characterized the claims in question as being drawn to a nonelected species and therefore, improperly withdrew the claims in question from further consideration and improperly required the cancellation of these claims.

In view of the above, (1) the examiner's requirement that applicant cancel claims 131, 133, 135, 137-145, 205, 206, 213-215, and 272-276 is hereby rescinded, and (2) the above noted claims are rejoined and will be fully examined[1] for patentability under 37 CFR 1.104.

Conclusion and Summary

The finality of the Office action mailed January 7, 2004 is hereby withdrawn. The requirement that applicant cancel claims 131, 133, 135, 137-145, 205, 206, 213-215, and 272-276 is hereby rescinded. The above noted claims are rejoined. Upon the mailing of this decision, the application will be returned to the examiner for the preparation of a new non-final Office action that is consistent with this decision.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-37502975

ak/01/20/05

[1] It is noted that 37 CFR 1.142(a) provides that a restriction requirement can be made at any time before final action at the discretion of the examiner. Thus, if the examiner is of the opinion that the subject matter recited in the claims in question (represented in Fig. 12B) is a patentably distinct species, he has the option of requiring a new election of species.

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Brian Samuel Beaman et al	:	
Application No. 09/921,867	:	ON PETITION
Filed: August 3, 2001	:	
Attorney Docket No. YOR919930028US6	:	

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 April 19, 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 July 20, 2005.

The instant 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 unintentionally delay have been received. Accordingly, the reply to the non-final Office action of April 19, 2005 is accepted as having been unintentionally delayed.

Pursuant to petitioner's authorization, Deposit Account No. 09-0468 was charged $1,500.00 for the petition to revive an unintentionally abandoned application.

This matter is being referred to Technology Center AU 3729.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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Intellectual Property Law Dept.
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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:
Brian Samuel BEAMAN et al.	: DECISION ON PETITIONS
Application No. 09/921,867	: UNDER 37 CFR 1.182 AND
Filed: August 3, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. YOR919930028US6	:

This is a decision on the petitions filed May 5, 2006 under 37 CFR 1.182 requesting expedited consideration of the petition under 37 CFR 1.78(a)(3) filed May 5, 2006, and 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 nonprovisional applications set forth in the concurrently filed amendment.

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 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 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.

Petitioner files the instant petition relying upon an amendment filed April 2, 2002. The amendment submitted April 2, 2002 as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of applicant's remarks and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that

37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3)[1].

Petitioner's Deposit Account No. 09-0468 has been charged $1770 ($400 for the petition under 37 CFR 1.182 and $1370 for the petition under 37 CFR 1.78(a)(3)).

Further correspondence with respect to this matter should be addressed as follows:

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By fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to Technology Center Art Unit 3729 for consideration of the petition filed May 5, 2006 under 37 CFR 1.103 to defer examination.

David Bucci
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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Yorktown Heights NY 10598

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JUN 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Brian Samuel BEAMAN et al.	:	
Application No. 09/921,867	:	DECISION ON PETITION
Filed: August 3, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. YOR919930028US6	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with items (1) and (3).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed April 16, 2007 states that Serial Number 08/055,485 is a continuation-in-part of Serial Number 09/963,346; however, Office records indicate that no such claim was made in 08/055,485.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application are required.

Additionally, the rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. No such statement has been made.

Further correspondence with respect to this matter should be addressed as follows:

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By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Dr. Daniel P. Morris, Esq.
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights NY 10598

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JUN 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Brian Samuel BEAMAN et al.	:	
Application No. 09/921,867	:	DECISION ON PETITION
Filed: August 3, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. YOR919930028US6	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed June 15, 2007 states that Serial Number 08/055,485 is a continuation-in-part of Serial Number 07/963,346; however, Office records indicate that no such claim was made in 08/055,485.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dr. Daniel P. Morris, Esq.
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P.O. Box 218
Yorktown Heights NY 10598

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of	:
Brian Samuel BEAMAN et al.	:
Application No. 09/921,867	: DECISION ON PETITION
Filed: August 3, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. YOR919930028US6	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 5, 2007, 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 with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All 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 applications 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 applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 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 application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3729 for appropriate action on the amendment filed June 15, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
09/921,867	08/03/2001	3729	9698	YOR919930028US6	28	3

CONFIRMATION NO. 7821

CORRECTED FILING RECEIPT

OC000000025092707

Dr. Daniel P. Morris, Esq.
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

Date Mailed: 07/30/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Brian Samuel Beaman, Hyde Park, NY;
Keith Edward Fogel, Bardonia, NY;
Paul Alfred Lauro, Nanuet, NY;
Maurice Heathcote Norcott, Valley Cottage, NY;
Da-Yuan Shih, Poughkeepsie, NY;
George Frederick Walker, New York, NY;

Power of Attorney:

Daniel Morris--32053

Domestic Priority data as claimed by applicant

This application is a CON of 08/872,519 06/11/1997 PAT 6,334,247
which is a DIV of 08/754,869 11/22/1996 PAT 5,821,763
which is a CON of 08/055,485 04/30/1993 PAT 5,635,846
which is a CIP of 07/963,346 10/19/1992 PAT 5,371,654

Foreign Applications

If Required, Foreign Filing License Granted: 08/15/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/921,867

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

High density integrated circuit apparatus, test probe and methods of use thereof

Preliminary Class

029

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

JUL 31 2001

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.gc

~~JUL 30 2002~~

RECEIVED: 8-5-02
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-7-02
Type of Resp(s):
Due Date(s):

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

OIPE JC98
MAY 0 8 2003
PATENT & TRADEMARK OFFICE

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

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
	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
	9911493	1743
	9832354	1753
	9842735	1765
	9884981	1765
	9911702	1765
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	10124460	1765
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	09662390	1765
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	9871958	1775
	9901109	1775
	9960402	1775
	09274268	1775
	09465623	1775
	09813779	1775
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	10125486	2811
	10128262	2811
	10141876	2811
	10145734	2811
	10150065	2811
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2061 ssus-8737-s737-ss	09766046	2811
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210790US.-8737-8737-99	09897965	2811
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211804US-8737-8737-99	09911456	2811
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Docket Number	Application #	Art Unit
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Docket Number	Application #	Art Unit
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	9911420	3663
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By FAX: (703) 872-9005

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
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

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Paper No. 3

JUNG-HUA KUO
P.O. BOX 3275
LOS ALTOS, CA 94024

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OFFICE OF PETITIONS

In re Application of
Victor Kouznetsov et al.
Application No. 09/921,940
Filed: August 2, 2001
Attorney Docket No. NETAP009

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 1, 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. A corrected filing receipt accompanies this decision.

This file is being forwarded to Technology Center AU 2152 for examination in due course.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

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
DIW 12-01

Paper No. 3

JUNG-HUA KUO
ATTORNEY AT LAW
PO BOX 3275
LOS ALTOS, CA 94024

COPY MAILED

DEC 1 0 2001

OFFICE OF PETITIONS

In re Application of	:	
Kouznetsov et al.	:	
Application No. 09/921,941	:	ON PETITION
Filed: 2 August, 2001	:	
Attorney Docket No. NETAP007	:	

This is a decision on the petition under 37 CFR 1.182, filed on 1 October, 2001, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Victor Zouznetsov
2. Charles L. Vigue
3. Martin Fallenstedt
4. Daniel Melchione

This application is being forwarded to Technology Center 2100 via Application Branch Data Input to change the order of inventorship.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 3

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NOV 0 5 2001

OFFICE OF PETITIONS

Fogg Slifer & Polglaze
PO Box 581009
Minneapolis, MN 55458-1009

In re Application of
Jonathan R. Belk et al.
Application No. 09/921,945
Filed: August 3, 2001
For: Circuit and Method for Service Clock Recovery

: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed August 3, 2001.

The petition under 37 CFR 1.47(a) is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the file will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Jonathan R. Belk
731 Kingswood Avenue
Richardson, TX 75080

COPY MAILED

NOV 05 2001

OFFICE OF PETITIONS

In re Application of
Jonathan R. Belk and Richard A. Nichols
Application No. 09/921,945
Filed: August 3, 2001
For: Circuit and Method for Service Clock Recovery

Dear Mr. Belk:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any patent thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Fogg Slifer & Polglaze
PO Box 581009
Minneapolis, MN 55458-1009

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www.uspto.gov

KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

MAILED

APR 20 2009

OFFICE OF PETITIONS

In re Application of
David J. Scarborough et al
Application No. 09/921,993
Filed: August 2, 2001
Attorney Docket No. 5437-60780-01

ON PETITION

This is a decision on the petition, filed April 17, 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 March 4, 2009 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 2129 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

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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

Technology Center 1700

APR 8 2004

Mailed:_____

rvk

Paper Number: ____

In re application of
Mark Rutenberg et al
Serial No. 09/922,013
Filed: August 03, 2001
For: DETECTION OF EPITHELIAL DYSPLASIA

DECISION ON PETITION

This is a response to the PETITION filed November 10, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 30, 2003, for failure to timely file a proper response to the Office letter dated April 08, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response to the Office letter of April 08, 2003 on October 08, 2003 together with the Petition for Extension of Time.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did in fact reply to the Office letter of April 08, 2003 in a timely manner. The submitted evidence are copies of the following documents : (1)Amendment in response to the Office letter of April 08, 2003; (2) Petition for Extension of Time with three months; (3) Fax confirmation report dated October 08, 2003 ; and (3) Certificate of Transmission by Facsimile for the Amendment and Petition for Extension of Time dated October 08, 2003.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the Technical Support Staff

for entering of the Response/Amendment and the Petition of Extension of Time, and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PETER L. BERGER, ESQ
LEVISOHN, BERGER & LANGSAM, LLP
805 THIRD AVENUE, 19TH FLOOR
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 4

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

COPY MAILED

SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of	:
JIAN GU	:
Application No. 09/922,019	: DECISION GRANTING PETITION
Filed: August 2, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 5281P006	:

This is a decision on the petition, filed May 20, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on December 13, 2001. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of á grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. The Office records indicate that the application published on February 20, 2003.

This application is being forwarded to Technology Center Art Unit 2631 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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FEB 19 2004

OFFICE OF PETITIONS

In re Application of
Jian Gu
Application No. 09/922,019
Filed: August 2, 2001
Attorney Docket No. **5281P006**

ON PETITION

This is a decision on the petition first filed July 7, 2003, and in duplicate on January 14, 2004. The petition is titled, "Request for Withdrawal of Petition for Revival (Request for Refund)." The petition will be treated under 37 CFR 1.182

The petition is **dismissed**.

Petitioner requests that the decision mailed September 30, 2003, granting the petition under 37 CFR 1.137(b) be vacated due to further clarification of the Patent and Trademark Office's interpretation of the provisions of 35 USC 1.22(b)(2)(B)(ii)-(iv) that petitioner argues made the petition under 37 CFR 1.137(b) unnecessary. Petitioner maintains that 35 USC 1.22(b)(2)(B)(ii)-(iv) is interpreted such that if an applicant makes a non-publication request under 35 USC 1.22(b)(2)(B)(ii)-(iv) and then rescinds the non-publication request before or on the date a counterpart application is filed in an eighteen-month publication country, the non-publication request will be treated as annulled, and the application will be treated as if the non-publication request was never made. Petitioner, therefore, concludes that when a rescission of the non-publication request is timely filed, no notice of foreign filing is required under 35 USC 1.22(b)(2)(B)(ii)-(iv).

This is an accurate interpretation of the 35 USC 1.22(b)(2)(B)(ii)-(iv), however; it does not appear that the recession of the non-publication request was timely filed in this instance. A review of the application file revealed that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month publication country on December 13, 2001. Further review of the application filed revealed that the Notice to Rescind was received on January 24, 2002. Although a certificate of mailing pursuant to 37 CFR 1.8 dated December 4, 2001, is noted on the Notice to Rescind, petitioner is advised a Notice to Rescind does not receive the benefit of the certificate of mailing procedures. Accordingly, the date of actual receipt by the Patent and Trademark Office of the Notice to Rescind is the date that will be used to determine whether the rescission was made before or on the date the counterpart application was filed in an eighteen-month publication country. As the Notice to Rescind was received on January 24, 2002, after the counterpart application was filed in the eighteen-month publication country, notice of foreign filing was required and, because such notice was not timely given, the petition under 37 CFR 1.137(b) filed September 30, 2003, was necessary.

The fee for the petition under 37 CFR 1.137(b) will not be refunded, however; deposit account 02-2666 will be charged $130.00 for the instant petition fee.

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 FAX: (703) 872-9306
Attn: Office of Petitions

By Hand: Office of Petitions
Crystal Plaza 4, 3C23
2201 South Clark Place
Arlington, VA 22202

The application will be sent to Technology Center 3600 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

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

John G. Rauch
Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

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MAR - 7 2002

OFFICE OF PETITIONS

In re Application of :
Cheung et al. :
Application No. 09/922,028 :
Filed: August 3, 2001 :
Attorney Docket No. 9623/329 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.183, filed November 13, 2001, to waive 37 CFR 1.52(e).

When a compact disc has been submitted as part of an application, one is required to list the files on the disc in the application and on the transmittal sheet. In the instant case, applicant seeks a waiver of the requirement and seeks to submit such a listing on compact disc rather than in the application and on the transmittal sheet.

The petition is **granted**.

Petitioner has demonstrated that a listing of the files would be over 1,000 pages long. Petitioner has submitted a "table" on the compact disc listing each file on the disc by file name, file size, and creation date.

Petitioner should note that petitioner, and not the Office, is responsible for identifying and correcting any difference between the file list on the compact disc and the files actually on the compact disc.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 14

JOHN G. RAUCH
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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SEP 1 2 2002

OFFICE OF PETITIONS

In re Application of
Dominic Cheung et al
Application No. 09/922,028
Filed: August 3, 2001
Attorney Docket No. 9623/329

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

Transaction List

Search by

Accounting Date: (MMDDYY) Operator ID:

Name/Number: 09922028

Attrny Docket No:

Deposit Account No.:

Accounting Date Starts: Ends:

Find...

Accounting Date	Operator ID	Seq. No.	Txn Src	Fee Code	St	Amount	Name/Number	Dep Acct
03/13/2002	DBYRNE	221	SALE	581	A	40.00	09922028	
03/08/2002	BNGUYEN1	134	SALE	215	A	55.00	09922028	
03/08/2002	BNGUYEN1	133	SALE	205	A	65.00	09922028	
08/10/2001	VTRUONG1	2	SALE	122	A	130.00	09922028	
08/08/2001	VTRUONG1	117	SALE	203	A	459.00	09922028	
08/08/2001	VTRUONG1	116	SALE	202	A	560.00	09922028	
08/08/2001	VTRUONG1	115	SALE	201	A	355.00	09922028	

OK | Adjustment Detail | Authorization Detail | Print Screen

1,28C

Adjustment date: 08/30/2002 MBLANCO
08/08/2001 VTRUONG1 00000051 09922028
01 FC:201 -355.00 OP 51
02 FC:202 -560.00 OP 14
03 FC:203 -459.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC68
OCT 2 8 2003
PATENT & TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 13

Richard A. Catalina, Jr.
Catalina & Associates
167 Avenue at the Common
Shrewsbury, NJ 07702

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OCT 2 1 2003
OFFICE OF PETITIONS

In re Application of :
Darrin Viggiano :
Application No. 09/922,056 : ON PETITION
Filed: August 3, 2001 :
Attorney Docket No. 01-11276-01 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 2, 2003, 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 13, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. Accordingly, the application became abandoned on September 14, 2003.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

The application file is being forwarded to Publishing Division.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: blank Issue Fee Transmittal Form

RECEIVED
OCT 2 8 2003
Office of Patent Publication
Director's 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. 6

Thompson Coburn, LLP
One US Bank Plaza
Suite 3500
St. Louis, MO 63101

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MAR 1 0 2004

OFFICE OF PETITIONS

In re Application of
Charles Risdall, et. al.
Application No. 09/922,057
Filed: August 3, 2001
Attorney Docket No. 38572-26217

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 4, 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) was obtained. Accordingly, the above-identified application became abandoned after midnight February 4, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $665 for the petition to revive fee, and an amendment.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3600 for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

WILMER CUTLER PICKERING HALE AND DORR LLP
399 PARK AVENUE
NEW YORK, NY 10022

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APR 17 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Maximilian Ott, et al. :
Application No. 09/922,127 :
Filed: August 3, 2001 :
Attorney Docket No.: 111785.122 US2 :

This is a decision on the petition, filed April 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2143 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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

DR. D. GRAESER
C/O THE POLKINGHORNS
9003 FLORIN WAY
UPPER MARLBORO, MD 20772

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MAY 07 2004

OFFICE OF PETITIONS

In re Application of :
Dov Moran :
Application No. 09/922,153 :
Filed: August 6, 2001 :
Attorney Docket No. M01/20 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2188.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: MARK FRIEDMAN
O/O ROBERT SHEINBEIN
2940 BIRCHTREE LANE
SILVER SPRING, MD 20906

UNITED STATES 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 :05/16/07

Patent No. : 7044589 B2
Ser. No. : 09/922,158
Inventor(s) : SILVERBROOK, KIA
Issued : 05/16/06
Title : **PRINTING CARTRIDGE WITH BARCODE IDENTIFICATION**
Docket No. : YU133US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

LMN

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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SILVERBROOK RESEARCH PTY LTD
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BALMAIN 2041 AU AUSTRALIA

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,044,589
Application No. 09/922,158
Filed: August 6, 2001
Issued: May 16, 2006
Attorney Docket No. YU133US

ON PETITION

This is a decision on the petition filed October 29, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Petitioner submitted the $130.00 requisite surcharge and $100.00 Certificate of Correction fee on both May 3, 2007 and October 29, 2007, when only one payment is necessary. Accordingly, the duplicate $130.00 surcharge and $100.00 Certificate of Correction fee will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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)
6,724,435	2004-04-20	09/922,164	2001-08-06	988/21 (P22954)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2009-09-28
Name	Jeffrey s. Draeger	Registration Number	41000

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. 6724435
Issue Date: April 20,2004
Application No. 09922164
Filed: August 6,2001
Attorney Docket No. 988/21

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 28,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 28,2009 . 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 10

Nasa/Marshall Space Flight Center
LSO1/Office of Chief Counsel
MSFC, AL 35812

COPY MAILED

FEB 25 2003

OFFICE OF PETITIONS

In re Application of
Ford, Donald B.
Application No. 09/922,169
Filed: August 6, 2001
Attorney Docket No. MFS-31613-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner in reply to the Non-Final Office action mailed June 25, 2002, which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on September 26, 2002.

This application file is being forwarded to Technology Center AU 3641 for further processing.

Telephone inquiries regarding this decision may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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)
6908957	2005-06-21	09922187	2001-08-03	N-1824A

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	/Jane E. Gennaro/	Date (YYYY-MM-DD)	2009-08-03
Name	Jane E. Gennaro	Registration Number	34884

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. 6908957
Issue Date: June 21,2005
Application No. 09922187
Filed: August 3,2001
Attorney Docket No. 1824A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 4,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 4,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 03-02

Paper No. 5

MORRIS MANNING & MARTIN LLP
1600 ATLANTA FINANCIAL CENTER
3343 PEACHTREE ROAD, NE
ATLANTA GA 30326-1044

COPY MAILED

MAR 2 2 2002

OFFICE OF PETITIONS

In re Application of	:	
John David West Brothers	:	
Application No. 09/922,209	:	ON PETITION
Filed: 3 August, 2001	:	
Attorney Docket No. 9339/34809	:	

This is a decision on the petition filed 18 October, 2001, 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;[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.

The instant petition has been found in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office

[1] The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

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, 27 June, 2002, accompanies this decision on petition. In view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed concurrently with this decision 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 the Office of Initial Patent Examination for further processing and to await a reply to the Notice of Publication Fee Due mailed concurrently with this decision.

Any inquiries concerning this decision may 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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,220	08/03/2001	Israel Rubinstein	U 013579-0	8917

140 7590 05/29/2008
LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

EXAMINER
ALEXANDER, LYLE

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
05/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

5-29-08

In re application of	:	
Rubinstein et al.	:	DECISION ON
Serial No. 09/922,220	:	PETITION
Filed: August 3, 2001	:	

For: METHOD AND APPARATUS FOR DETECTING AND QUANTIFYING A CHEMICAL SUBSTANCE EMPLOYING AN OPTICAL TRANSMISSION PROPERTY OF METALLIC ISLANDS ON A TRANSPARENT SUBSTRATE

This is a decision on the PETITION UNDER 37 CFR 1.181 to withdraw the finality of the Office action dated December 13, 2007.

It is noted that the examiner has reopened prosecution and a non-final office action was mailed on April 14, 2008.

Accordingly, the instant petition is **DISMISSED** as moot.

/JACQUELINE STONE/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

O I P E JC69
JUN 0 3 2002
PATENT & TRADEMARK OFFICE

PATENT
Our Docket: P-EA 4854

#7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Glen A. Evans

Serial No.: 09/922,221

Filed: August 2, 2001

For: METHOD FOR ASSEMBLY OF A POLYNUCLEOTIDE ENCODING A TARGET POLYPEPTIDE

Examiner: Not yet assigned

Group Art Unit: 1643

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: United States Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA 22202, on May 28, 2002.

By Astrid R. Spain
Astrid R. Spain, Reg. No. 47,956

October 18, 2001
Date of Signature

COPY OF PAPERS ORIGINALLY FILED

United States Patent and Trademark Office
Box Sequence, P.O. Box 2327
Arlington, VA 22202

Sir:

COMMUNICATION REGARDING SEQUENCE LISTING

New pages 1 through 3 are submitted herewith containing Sequences 1 through 11, formatted in accordance with the conventions set forth in 37 C.F.R. § 1.823. No new matter is introduced by these new pages as they merely represent the sequences originally set forth in the application. Accordingly, entry of these new pages is respectfully requested.

No fee is deemed necessary in connection with the filing of this Preliminary Amendment. However, if any fee is required, authorization is given to charge the amount of this fee to Deposit Account No. 03-0370.

Respectfully submitted,

May 28, 2002
Date

Astrid R. Spain

Astrid R. Spain
Registration No. 47,956
Telephone: (858) 535-9001
Facsimile: (858) 535-8949

CAMPBELL & FLORES LLP
4370 La Jolla Village Drive, 7th Floor
San Diego, California 92122
USPTO CUSTOMER NO. 23601

OIPE JC59
JUN 0 3 2002
PATENT & TRADEMARK OFFICE

PAPER COPY OF SEQUENCE LISTING
PAGES 1 THROUGH 3
Attorney Docket No.: P-EA 4854
Serial No.: 09/922,221

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: United States Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA 22202, on May 28, 2002.

By Astrid R. Spain
Astrid R. Spain, Reg. No. 47,956

May 28, 2002
Date of Signature

COPY OF PAPERS
ORIGINALLY FILED

OIPE JC59
JUN 0 3 2002
PATENT & TRADEMARK OFFICE

PATENT
Our Docket: P-EA 4854

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Glen A. Evans	Examiner: Not yet assigned
Serial No.: 09/922,221	Group Art Unit: 1643
Filed: August 2, 2001	I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: United States Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA 22202, on May 28, 2002.
For: METHOD FOR ASSEMBLY OF A POLYNUCLEOTIDE ENCODING A TARGET POLYPEPTIDE	By Astrid R. Spain Astrid R. Spain, Reg. No. 47,956 May 28, 2002 Date of Signature

United States Patent and
Trademark Office
Box Sequence, P.O. Box 2327
Arlington, VA 22202

COPY OF PAPERS ORIGINALLY FILED

Sir:

TRANSMITTAL

Responsive to the NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES mailed March 29, 2002, the following are provided:

X (1) a copy of the NOTICE;

X (2) a copy of the sequence listing in computer readable form;

X (3) a Communication Regarding Sequence Listing;

X (4) paper copy of sequence listing, pages 1 through 3;

X (5) a statement under 37 CFR §1.821(f) and (g);

Please charge any additional fees or credit any overpayment to Deposit Account No. 03-0370. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: May 28, 2002

Astrid R. Spain

Astrid R. Spain
Registration No. 47,956
Telephone: (858) 535-9001
Facsimile: (858) 535-8949

CAMPBELL & FLORES LLP
4370 La Jolla Village Drive, 7th Floor
San Diego, California 92122
USPTO CUSTOMER NO. 23601

OIPE JC59 JUN 03 2002 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/922,221	08/02/2001	Glen A. Evans	P-EA 4854

CONFIRMATION NO. 8915

FORMALITIES LETTER

OC000000007750686

23601
CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122

COPY OF PAPERS ORIGINALLY FILED

Date Mailed: 03/29/2002

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).

- 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

OIPE JC42
JAN 07 2002
PATENT & TRADEMARK OFFICE

#14 Seeder

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
09/922,221	08/02/2001	Glen A. Evans	P-EA 4854

CONFIRMATION NO. 8915

FORMALITIES LETTER

OC000000006795940

23601
CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO, CA 92122

Date Mailed: 09/26/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **710** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $214.
  - **$54** for **3** total claims over 20.
  - **$160** for **2** independent claims over 3 .
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 1054.**

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

COPY OF PAPERS
ORIGINALLY FILED

01/11/2002 KZEWDIE 00000016 09922221
01 FC:201 370.00 OP
02 FC:205 65.00 OP
03 FC:202 84.00 OP
04 FC:203 27.00 OP

OIPE JC42
JAN 0 7 2002
PATENT & TRADEMARK OFFICE

PATENT
Our Docket: P-EA 4854

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Glen A. Evans

Serial No.: 09/922,221

Filed: August 2, 2001

For: METHOD FOR ASSEMBLY OF A POLYNUCLEOTIDE ENCODING A TARGET POLYPEPTIDE

Examiner: Not yet assigned

Group Art Unit: 1643

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Attention Box Missing PartsCommissioner for Patents, Washington, D.C. 20231, on October 18, 2001.

By Astrid R. Spain
Astrid R. Spain, Reg. No. 47,951

October 18, 2001
Date of Signature

COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231
Attention: BOX MISSING PARTS

MISSING PARTS TRANSMITTAL

Dear Sir:

In response to the Notice to File Missing Parts mailed September 26, 2001, enclosed are:

X 1. A copy of the Notice to File Missing Parts;

X 2. An executed Declaration for Patent Application;

___ 3. A Recordation Form Cover Sheet and an executed Assignment;

X 4. An executed Small Entity Statement;

X 5. An executed Power of Attorney for Patent Application by Assignee;

X 6. An executed Statement Under CFR 3.73(b) with copy of executed Assignment

The filing fee has been calculated as shown below:

	NUMBER FILED		NUMBER EXTRA		RATE			FEE	
					SMALL ENTITY	OTHER ENTITY		SMALL ENTITY	OTHER ENTITY
TOTAL CLAIMS	23-20	=	3	x	$9	$18	=	$27	$
INDEPEN-DENT CLAIMS	5-3	=	2	x	$42	$84	=	$84	$
MULTIPLE DEPENDENT CLAIMS PRESENTED: ____YES X NO					$140	$280	=	$0	$
					BASIC FEE			$370	$740
					TOTAL FEE			$481	

X 7. A check in the amount of $546.00 to cover the filing fee of $481.00, and the surcharge fee of $65.00 for the application is enclosed.

COPY OF PAPERS ORIGINALLY FILED

X The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 03-0370. A duplicate copy of this sheet is enclosed.

- X Any additional filing fees required under 37 C.F.R. 1.16.
- X Any patent application processing fees under 37 C.F.R. 1.17.

X The Commissioner is hereby authorized to charge to Deposit Account No. 03-0370 any fees under 37 CFR 1.17 which may be required under 37 CFR 1.136(a)(3) for an extension of time in any concurrent or future reply requiring a petition for extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted

Date: October 18, 2001

By: Astrid R. Spain
Astrid R. Spain
Reg. No. 47,956

CAMPBELL & FLORES LLP
4370 La Jolla Village Drive
7th Floor
San Diego, California 92122
Telephone: (858) 535-9001
Facsimile: (858) 535-8949
USPTO CUSTOMER NO. 23601

OIPE JC42
JAN 0 7 2002
PATENT & TRADEMARK OFFICE

STATEMENT UNDER 37 C.F.R. § 3.73(b)
WITH COPY OF EXECUTED ASSIGNMENT
Attorney Docket No.: P-EA 4854
Serial No.: 09/922,221

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Attention: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231, on October 18, 2001.

By Astrid R. Spain
Astrid R. Spain, Reg. No. 47,956

October 18, 2001
Date of Signature

COPY OF PAPERS
ORIGINALLY FILED

POWER OF ATTORNEY FOR PATENT APPLICATION
Attorney Docket No.: P-EA 4854
Serial No.: 09/922,221

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Attention: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231, on October 18, 2001.

By Astrid R. Spain

Astrid R. Spain, Reg. No. 47,956

October 18, 2001
Date of Signature

OIPE JC10
JAN 17 2002
PATENT & TRADEMARK OFFICE

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TRANSMITTAL LETTER			DOCKET NUMBER: P-EA 4854
SERIAL NO: 09/922,221	FILING DATE: August 2, 2001	EXAMINER: Not yet assigned	GROUP ART UNIT: Not yet assigned
INVENTION: METHOD FOR ASSEMBLY OF A POLYNUCLEOTIDE ENCODING A TARGET POLYPEPTIDE			

RECEIVED
APR 03 2002
TECH CENTER 1600/2900

TO COMMISSIONER FOR PATENTS

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C., 20231 on November 30, 2001.

By: Astrid R. Spain
Astrid R. Spain, Reg. No. 47,956

November 30, 2001
Date of Signature

RECEIVED
APR 04 2002
TECH CENTER 1600/2900

Transmitted herewith are the following documents in connection with the above-identified application:

1. Preliminary Amendment

___ Please charge my Deposit Account No. 03-0370 the amount of $_____. A duplicate copy of this sheet is enclosed.

_X_ The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 03-0370. A duplicate copy of this sheet is enclosed.

_X_ The Commissioner is hereby authorized to charge to Deposit Account No. 03-0370 any fees under 37 CFR 1.17 which may be required under 37 CFR 1.136(a)(3) for an extension of time in any concurrent or future reply requiring a petition for extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Astrid R. Spain

Astrid R. Spain
Registration No. 47,956
CAMPBELL & FLORES LLP
4370 La Jolla Village Drive
7th Floor
San Diego, California 92122
858-535-9001
USPTO CUSTOMER NO. 23601

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P.O. BOX 1450
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TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

COPY MAILED

MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Paul Grudnitski, et al.	:	
Application No. 09/922,223	:	NOTICE
Filed: August 1, 2001	:	
Attorney Docket No. LLI001	:	

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 (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

BRINKS HOFER GILSON & LIONE
N B C TOWER, SUITE 3600
455 N. CITYFRONT PLAZA DR.
Chicago, IL 60610

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Patent No. 6,866,797	:	
Martin et al.	:	DECISION ON REQUEST FOR
Issue Date: March 15, 2005	:	RECONSIDERATION OF
Application No. 09/922,231	:	PATENT TERM ADJUSTMENT
Filed: August 3, 2001	:	
Attorney Docket No. 11181/3	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed May 16, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from seventeen (17) days to one hundred fifty-six (156) 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 March 15, 2005, the above-identified application matured into U.S. Patent No. 6,866,797. The instant request for reconsideration filed May 16, 2005 (certificate of mailing dated May 13, 2005) 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 17 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 156 days on the basis that the patent issued 3 years and 224 days after the date on which the application was filed.

It is agreed that the instant patent issued 3 years and 224 days after its filing date. However, if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period

during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 160 days attributable to grounds specified in § 1.702(a)(1) overlaps with the 224 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 224 days. Accordingly, a period of adjustment to cover the net increase in PTA of 64 days was entered upon issuance of the patent.

In view thereof, the patent properly issued with a patent term adjustment of 17 days (160 + 64 days of adjustment reduced by 207 days of reduction for applicant delay).

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 returned to Files Repository for storage as a patented file.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Technology Center 2100

Paper No. 6

DARBY & DARBY P.C.
805 Third Avenue
New York NY 10022

In re Application of: Samuel Sergio Tenenbaum
Application No. 09/922,232
Filed: August 3, 2001
For: COMPUTERIZED ADVERTISING METHOD AND SYSTEM

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R §1.102(d) AND MPEP §708.02(II) AND 37 C.F.R. §1.496(b) IN CONJUNCTION WITH MPEP §1893.03

This is a decision on the petition, filed November 30, 2001, under 37 C.F.R. §1.102(d) and M.P.E.P §708.02(II): Infringement, and under 37 C.F.R. §1.496(b) in conjunction with M.P.E.P. §1893.03.

I. Infringement

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

Applicant's petition is deficient in that it has **not been expressly stated that a rigid comparison has been made** between the infringing device, product, or method with the claims of the application and that some of the claims are **unquestionably** infringed. It should also be noted that though it may be construed that a careful and thorough search has taken place due to the IPER, this should be stated outright in the petition. Furthermore, the applicant has **failed to provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims**.

II. Continuation

37 C.F.R. §1.496(b) states:

> A national stage application filed under 35 U.S.C. 371 may have paid therein the basic national fee as set forth in §1.492(a)(4) if it contains, or is amended to contain, at the time of entry into the national stage, only claims which have been indicated in an international preliminary examination report prepared by the United States Patent and Trademark Office as satisfying the criteria of PCT Article 33(1)-(4) as to novelty, inventive step and industrial applicability. Such national stage applications in which the basic national fee as set forth in §1.492(a)(4) has been paid may be amended subsequent to the date of entry into the national stage only to the extent necessary to eliminate objections as to form or to cancel rejected claims. Such national stage applications in which the basic national fee as set forth in §1.492(a)(4) has been paid will be taken up out of order.

M.P.E.P. §1893.03 states:

> An international application which enters the national stage will be forwarded to the appropriate Technology Center (TC) for examination in turn based on the 35 U.S.C. 371(c) date of the application. As set forth in 37 CFR 1.496(b), if an application includes only claims which have been indicated in an IPER prepared by the USPTO to satisfy the criteria of PCT article 33(1)-(4), the application qualifies for the reduced basic national fee set forth in 37 CR 1.492(a)(4). Applications in which the reduced basic national fee has been paid will be taken up out of order by examiners.

Though the applicant has provided an IPER satisfying the criteria of PCT article 33(1)-(4) as to novelty, inventive step, and industrial applicability, it should be noted that the **application has not been filed as a continuation application under 37 CFR 371**. Furthermore, the **claims of the application are not identical in scope** to those that were considered in the IPER. Thus, the application does not meet the requirements to be taken up out of order as described in 37 CFR §1.496(b) and M.P.E.P. §1893.03.

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.

If the petitioner desires further review of this decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

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Technology Center 2100

Joseph B. Lerch
DARBY & DARBY P.C.
805 Third Avenue
New York NY 10022

In re Application of: Samuel S. Tennenbaum	)	
Application No. 09/922,232	)	**DECISION ON PETITION**
Filed: August 3, 2001	)	**UNDER M.P.E.P. §708.02(II):**
For: COMPUTERIZED ADVERTISING	)	**INFRINGEMENT**
METHOD AND SYSTEM	)	

This is a decision on the petition, filed November 30, 2001, and a subsequent request for reconsideration filed July 31, 2002, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(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's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Security, Architecture, and Software
(703) 306-4160

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KAPLAN, GILMAN, GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE, NJ 07095

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OFFICE OF PETITIONS

In re Application of	:	
Tenenbaum,	:	
Application No. 09/922,232	:	DECISION ON PETITION
Filed: August 3, 2001	:	TO WITHDRAW
Attorney Docket No. UVI 3.9-006 CON	:	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 22, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Kaplan, Gilman, Gibson & Dernier, LLP has been revoked by the assignee of the patent application on February 24, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mr. Daniel Rainer
United Virtualities, Inc.
116 West 23rd Street
New York, NY 10011

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 21 2005

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Caesar, Rivise, Bernstein, Cohen
& Pokotilow, Ltd.
11TH FLOOR, Seven Penn Center
1635 Market Street
Philadelphia, PA 19103-2212

In re Application of	:
Cheryl Steed *et al*	:
Application No. 09/922,239	: DECISION ON PETITION
Filed: August 3, 2001	:
Attorney Docket No. G2001/20004	:

This is a decision on the petition filed on July 28, 2004 by which petitioners request withdrawal of the holding that this application is abandoned for failure to file a timely and proper reply to the Office letter dated September 24, 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 not receive the Office letter in question. Therefore, a reply thereto could not be filed. In support of this allegation, petitioner has made a showing establishing that a new Power of Attorney and change of correspondence address had in fact been filed on August 18, 2003, but apparently had either not been received in the Office or, if received in the Office, had not been properly entered into the application file. As a result of the failure to enter the new power of attorney and change of correspondence address, the Office letter in question was sent to an erroneous correspondence address. Based upon these circumstances, 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 Technology Center 3700 to have the application placed in a pending status, reflecting the amendment that was filed concurrently with the petition. It is unnecessary to remail the Office action dated September 24, 2003 because petitioners have received a copy of the action by facsimile transmission and have in fact filed the amendment dated July 28, 2004 as a reply thereto.

After the application is placed in a pending and amended status, will be forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3728 for immediate action.

PETITION GRANTED.

Richard A. Berdych

E. R. Kazenske, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Frank C. Nicholas
CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, IL 60201

Mail Date: 04/21/2010

Applicant	: Michael A. Greenberg	: DECISION ON REQUEST FOR
Patent Number	: 7624061	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/922,240	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2467** 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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JUN 5 2002

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

#6

In re Application of	:
Thomas A. Steitz et al	:
Serial No.: 09/922,251	: PETITION TO MAKE SPECIAL
Filed: August 3, 2001	:
Attorney Docket No.: RIB-001	:

This is in response to applicants' petition filed April 15, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No. 7

RINES AND RINES
81 North State Street
Concord NH 03301

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OFFICE OF PETITIONS

In re Application of
Paul R. Johannessen
Application No. 09/922,283
Filed: August 3, 2001
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed December 12, 2001, to revive the above-identified application. The petition shall be treated as a request for extension of time within the first month.

The request is **granted**.

A "Notice of File Corrected Application Papers" was mailed to petitioner in September 14, 2001, and required, among other things, substitute drawings to be filed within two months of the mailing date of the notice. The notice provided that extensions of time were available pursuant to 37 CFR 1.136(a). On September 18, 2001, petitioner responded to the notice of September 14, 2001, but did not file the substitute drawings as required. A "Notice of Incomplete Reply" was mailed on December 3, 2001, again requiring the substitute drawings and indicating that the period for reply continued to run from the September 14, 2001-- the date the first notice was mailed. On December 12, 2001, petitioner filed a petition to revive the application, however; the application is not yet abandoned because the maximum statutory period available for reply (including extensions of time under 37 CFR 1.136(a)) has not expired. Accordingly, the instant petition is being treated as a request for an extension of time with the first month.

Deposit account 18-1425 will be assessed $55.00 for the extension of time within the first month. See 37 CFR 1.17(a)(1).

The application is being forward to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, 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

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MAR 18 2004

OFFICE OF THE DIRECTOR
TC 3600

Edward Le Roy Swindell
P.O. Box 36
Millbrook, N.Y. 12545

In re Application of:
Edward Le Roy Swindell
Serial No. 09/922,304
Filed: January 22, 2002
For: ALL ELECTRIC MOTOR VEHICLE

DECISION ON PETITION TO MAKE SPECIAL (ENERGY/ENVIRONMENT)

This is a decision on the petition filed March 27, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, or in the alternative, Section VI: Energy. The delay in deciding this petition is regretted.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by statements by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

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 by applicant or his attorney

The petition states that the present invention deals directly with alleviating the nation's overwhelming dependence and reliance upon fossil fuels for powering automobiles and other vehicles of transport and that the adoption of the invention will lower the consumption of fossil fuels and reduce harmful emissions into the atmosphere. These statements are inadequate to establish for the record that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements" (i.e. air, water, soil). Applicant has not provided an explanation as to how the invention contributes to the restoration or maintenance of the basic life sustaining natural elements. Furthermore, the savings in energy/environment need to be made with respect to other electric vehicles, otherwise all electric vehicles would qualify for special status and that is not the intent of the rules.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/cps 3/11/04

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Paper No. 21

MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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JUN 0 3 2003

OFFICE OF PETITIONS

In re Application of
Craig Hansen et al
Application No. 09/922,319
Filed: August 2, 2001
Attorney Docket No. 43876-128-CONT

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed by facsimile transmission on March 24, 2003, and supplemented on May 21, 2003, and May 29, 2003 under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the amendment submitted May 29, 2003.

The petition is **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the

[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).

> claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on August 2, 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)(3).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior applications. In order for the instant application to be entitled to the benefit of the prior applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any questions concerning this matter may be directed to Karen Creasy at (703) 305-8859 .

The application is being forwarded to Technology Center Art Unit 2676 for processing the amendment filed May 21, 2003, and for processing and 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 applications and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 25

LAWRENCE T. CULLEN
MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

COPY MAILED

SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Craig Hansen et al :
Application No. 09/922,319 : NOTICE
Filed: August 2, 2001 :
Attorney Docket No. 43876-128

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 Publishing Division to be processed into a patent.

Irvin Dingle
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.
09/922,325	08/03/2001	Stephen Joseph Ladyansky	D2702	7462

27774 7590 11/22/2005

MAYER, FORTKORT & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

EXAMINER
FRECH, KARL D

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:111505

DATE : November 15, 2005

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction on Patent No.: 6,758,404

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:

TYPOGRAPHICAL ERRORS CORRECTED.

KARL D. FRECH
PRIMARY EXAMINER

SPE: Michael G. Lee

Art Unit 2876

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 34

JUNG-HUA KUO
P.O. BOX 3275
LOS ALTOS, CA 94024

COPY MAILED
FEB 26 2003
OFFICE OF PETITIONS

In re Application of :
Victor Kouznetsov et al :
Application No. 09/922,329 : ON PETITION
Filed: August 2, 2001 :
Attorney Docket No. NETAP011 :

This is a decision on the petition under 37 CFR 1.182, filed October 9, 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. A corrected filing receipt accompanies this decision.

This file is being forwarded to Technology Center 2100.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

Karen Cressy for
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

Paper No. 9

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE, CA 95172-1120

COPY MAILED

JUL 1 8 2003

OFFICE OF PETITIONS

In re Application of	:
Victor Kouznetsov et al	:
Application No. 09/922,329	: DECISION GRANTING PETITION
Filed: August 2, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. NETAP011	:

This is a decision on the petition, filed by facsimile transmission on May 12, 2003, 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**.

Any request for reconsideration of this decision must be filed within TWO MONTHS from the mail date of this decision. Extensions of time are available pursuant to the provisions of 37 CFR 1.136(a).

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition fails to comply with item (1) above. More specifically, while notification has been given of the foreign filing, the petition fails to state the date of such foreign filing. Accordingly, the date of foreign filing must be supplied in order to grant the revival of the instant application. Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Wan Laymon at (703) 306-5685.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 11

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE, CA 95172-1120

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SEP 15 2003

OFFICE OF PETITIONS

In re Application of	:	
Victor Kouznetsov et al	:	
Application No. 09/922,329	:	DECISION GRANTING PETITION
Filed: August 2, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. NETAP011	:	

This is a decision on the response filed by facsimile transmission on September 2, 2003, which is being treated as a renewed petition under 37 CFR 1.137(b), to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 2, 5, and 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 Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m);

and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 18, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center Art Unit 2131 for examination in due course.

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

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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APR 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No.

Needham James Boddie, II
MYERS BIGEL SIBLEY & SAJOVEC
P.O. Box 37428
Raleigh, NC 27627

In re Application of:
Dana Borger
Application No. 09/922,348
Filed: August 3, 2001
For: SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR INTEGRATING ADVERTISING WITHIN WEB CONTENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 23, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed March 23, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Darren W. Collins
PATTON BOGGS, LLP
2001 Ross Avenue
Suite 3000
Dallas, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PATTON BOGGS, LLP
2001 ROSS AVENUE, SUITE 3000
DALLAS TX 75201

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DEC 23 2009
OFFICE OF PETITIONS

In re Application of :
Borger, et al. :
Application No. 09/922,348 : ON APPLICATION FOR
Filed: August 3, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. 026624.0224PTUS:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b), filed September 8, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at a minimum nine hundred thirty-eight (938) days, not three hundred and seven (307) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction ~~partly~~ on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, applicants' assertion that an

additional period of delay in connection with the filing of an Amendment After Allowance under 37 CFR 1.312 on August 24, 2009 should be entered can not be addressed at this time. The Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).
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 Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

CC: CHRISTOPHER W. ADAMS
PATTON BOGGS LLP
8484 WESTPARK DRIVE, 9TH FLOOR
MCLEAN, VA 22102

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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PATTON BOGGS, LLP
2000 McKinney Avenue, SUITE 1700
DALLAS, TX 75201

Mail Date: 04/21/2010

Applicant	: Dana Borger	: DECISION ON REQUEST FOR
Patent Number	: 7653748	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/922,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **841** 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
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PATTON BOGGS, LLP
2000 McKinney Avenue, SUITE 1700
DALLAS, TX 75201

Mail Date: 05/18/2010

Applicant : Dana Borger
Patent Number : 7653748
Issue Date : 01/26/2010
Application No : 09/922,348
Filed : 08/03/2001

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **956** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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#12

MAILED
FEB 18 2004
Office of the Director
Group 3600

Albin H. Gess
Price and Gess
2100 S.E. Main Street,
Suite 250
Irvine, CA 92614

In re Application of
Hayden N. Ringer, et al.
Application No. 09/922,360
Filed: August 4, 2001
For: IMAGE-INFRARED SKEWED-CONE FUZE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO), on November 17, 2003.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely respond to the Office action mailed March 27, 2003 and a Notice to that effect was mailed on November 4, 2003.

Applicants' petition submits a statement that he did not receive the Office action mailed March 27, 2003.

A further review of the file record reveals that a Change of Correspondence Address was received by the Office on March 31, 2003 and was processed April 5, 2003. The Office did not receive the Revocation of Attorney and Appointment of New Power of Attorney, as indicated in the attached post card receipt dated October 29, 2002 by OIPE. The Office action dated March 27, 2003 was mailed to the address on record with the Office before the updated correspondence address was processed. Consequently, the Office action was improperly sent to an incorrect address. This is clearly the reason that applicants did not receive the March 27, 2003 Office communication. Therefore, the holding of abandonment is withdrawn.

The updated change of correspondence address is as follows:

Albin H. Gess
Price and Gess
2100 S.E. Main Street,
Suite 250
Irvine, CA 92614

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment and restore the application to pending status before redating and remailing the Office action to the updated correspondence address of record.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/cps 1/22/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRISTOPHER MANNING
419 S. MAIN STREET
P O BOX 265
TROY, ID 83871

COPY MAILED

SEP 23 2005

OFFICE OF PETITIONS

In re Application of	:
Christopher J. Manning	:
Application No. 09/922,363	: DECISION ON PETITION
Filed: August 2, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CM 080201	:

This is a decision on the petition, filed August 22, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

The petition is accompanied by a request for continued examination, filing fee of $790, and a preliminary amendment. However, the correspondence is not accompanied by the required $130 petition fee. *Note* 37 CFR 1.17(h).

No consideration on the merits of the petition can be given until petitioner submits the $130 fee for the petition to withdraw from issue. Any reconsideration of this decision should be accompanied by a letter entitled"Renewed Petition under 37 CFR 1.313(c)(2)." Petitioner is advised that a grantable petition to withdraw from issue must be filed prior to the issuance of this application. The renewed petition and fee should be facsimile transmitted **directly** to the Office of Petitions at 571-273-0025. A form is available on the USPTO website for paying by credit card.

Petitioner is further advised that, since different matters are considered by different branches of the Office, the amendment and petition should be submitted in a separate paper. *Note* 37 CFR 1.4(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

[1] This is the central facsimile transmission number for the US 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

CHRISTOPHER MANNING
419 S. MAIN STREET
TROY, ID 83871

COPY MAILED

SEP 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Christopher J. Manning	:	
Application No. 09/922,363	:	DECISION GRANTING PETITION
Filed: August 2, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CM 080201	:	

This is a decision on the renewed petition, filed September 26, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

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 amendment filed August 12, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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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CHRISTOPHER MANNING
419 S. MAIN STREET
P O BOX 265
TROY, ID 83871

COPY MAILED

MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Christopher Manning :
Application No. 09/922,363 : DECISION ON PETITION
Filed: August 2, 2001 :
Attorney Docket No. CM 080201 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply on or before February 2, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed November 2, 2005. Accordingly, the date of abandonment of this application is February 3, 2006. A Notice of Abandonment was mailed on October 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 (fee to be re-applied from fee previously paid on July 11, 2005), (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 4

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

MAILED

APR 1 1 2003

Technology Center 2600

In re Application of	:	
Fisher et al.	:	
Application No. 09/922,385	:	DECISION ON REQUEST TO
Filed: August 3, 2001	:	WITHDRAW AS ATTORNEY
For: EXTENDED BANDWIDTH HOMEPNA	:	
SYSTEM COMPATIBLE WITH HOMEPNA 2.0	:	

This is a decision on the request to withdraw as attorney/agent of record filed on March 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys associated with Customer No. 22830 are granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Jim H. Salter
Blakely, Sokoloff, Taylor, and Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

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APR 11 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

MAILED

APR 11 2002

Technology Center 2100

David A. Belasco
BEEHLER & PAVITT
100 Corporate Point, Suite 330
Culver City, California 902330

In re Application of: Gary Mittman et al.	)	
Application No. 09/922,425	)	**DECISION ON PETITION**
Filed: August 3, 2001	)	**FOR ACCELERATED**
For: MEDIA PURCHASE GOAL	)	**EXAMINATION UNDER**
CORRELATION SYSTEM	)	**M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed August 3, 2001 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special, and the petition addendum, filed January 24, 2002.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, ***will make an election without traverse*** as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission fails on two counts. The petition is deficient in that **(1)** there is no statement that applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention as required by section (b), and **(2)** the discussion does not point out how the ***claimed subject matter is patentable over the references***. Note that the *identical statement*, that the entirety of Claim 1, except for the two "means for inputting...", is not taught or suggested by the reference, is presented for each of the references purported to be "most closely related". That is, the detailed discussion of the references as required by section (e) does not have the particularity 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
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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JUL 08 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

David A. Belasco, Esq.
Beehler & Pavitt
Suite 330
100 Corporate Pointe
Culver City, CA 90230

Paper No. 6

In re application of
Gary Mittman et al.
Application No. 09/922,425
Filed: August 3, 2001
For: MEDIA PURCHANSE GOAL CORRELATION SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on May 31, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/snm: 7/6/02

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM WA 98226

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
G. Herbert Lin, et al.	:	
Application No. 09/922,459	:	DECISION ON PETITION
Filed: August 3, 2001	:	TO WITHDRAW
Attorney Docket No. 3123-373	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 11, 2006.

The request is **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 Tejpal S. Hansra on behalf of all attorneys of record who are associated with customer No. 32093.

All attorneys/agents associated with the Customer Number 32093 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: G. HERBERT LIN
1233 MT QUAIL CIRCLE
SAN JOSE, CA 95120

cc: SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/922,459	08/03/2001	G. Herbert Lin	3123-373

CONFIRMATION NO. 1375

OC000000023191390

OC000000023191390

32093
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

Date Mailed: 03/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/11/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO CA 92121-1714

COPY MAILED

APR 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Mehyar Khazei	:	
Application No. 09/922,482	:	ON PETITION
Filed: 3 August, 2001	:	
Atty Docket No. PA990210U1	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 8 March, 2005, to revive the above-identified application.

The petition is **GRANTED**.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application became abandoned on 22 April, 2004, for failure to timely file a reply to the final Office action mailed on 21 January, 2004, 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 6 October, 2004.

On 8 March, 2005, the present petition was filed, accompanied by a Request for Continued Examination (RCE) and an amendment indicated as the submission required under 37 CFR 1.114.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Counsel's deposit account, No. 17-0026, will be charged the petition and RCE fees.

The application will be referred to Technology Center Art Unit 2829 for consideration of the RCE and amendment.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Steven L. Highlander, Esq.
FULBRIGHT & JAWORSKI L.L.P.
Suite 2400
600 Congress Avenue
Austin, TX 78701

COPY MAILED

DEC 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Cristiano et al.	:	DECISION ON APPLICATION
Application No. 09/922,490	:	FOR
Filed: August 3, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. INRP:021USC1	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§1.705(b)", filed March 15, 2004. Applicants request that the initial determination of patent term adjustment be corrected from zero (0) to forty-seven (47) days. The instant request was recently forwarded to the undersigned for consideration.

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 forty-seven (47) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 19, 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 0 days. On March 15, 2004,

applicants timely[1] submitted this application for patent term adjustment. Applicants state that a period of reduction of 85 days should not have been entered for their delay in filing a response to the Notice to File Missing Parts of Application mailed September 20, 2001.

The record supports a conclusion that the patent issuing from this application is subject to a terminal disclaimer.

A review of the application history reveals that the response at issue was mailed with a certificate of mailing on November 20, 2001 but was not received by the Patent Office until January 15, 2002. Given these circumstances, applicant's attention is directed to the OG Notice dated January 15, 2002 (1254 OG 92), which provided that:

> If a reply to an Office action or notice was 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), and the applicant is otherwise entitled to patent term adjustment (or additional patent term adjustment) but for the fact that there was a reduction of such patent term adjustment under 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b) due to the receipt of such reply by the Office more than three business days after the date indicated on the certificate of mailing, the Office will consider the USPS mail situation discussed in this notice to constitute a sufficient showing that, in spite of all due care, the applicant was unable to reply to the Office action or notice within three months of the date of mailing of the Office action or notice. In this situation, the Office will, subject to the conditions set forth below, reinstate a period equal to the period beginning on the date that is four business days after the date indicated on the certificate of mailing on the reply and the date of receipt (37 CFR 1.6) of the reply in the Office up to a maximum of three months.

The relevant reply to the Notice mailed September 20, 2001 was mailed on November 20, 2001, as shown by the certificate of mailing under § 1.8 thereon. However, the patent term adjustment was reduced because the reply was not received in the

---

[1] PALM records indicate that the issue fee payment was received on March 22, 2004.

Office until January 15, 2002. In addition, the Office entered the date of March 15, 2002 as the date the application was considered complete in response to the Notice and used that later date in calculating the 85-day reduction of patent term adjustment.

Thus, it is concluded that the Notice dated January 15, 2002 is applicable to this situation; in spite of all due care, applicant was unable to reply to the Notice to File Missing Parts within three months of the date of mailing of the notice. It is further concluded that applicant has met the other conditions set forth in the Notice for reinstatement of patent term. In this instance, the period of reinstatement begins on November 27, 2001, the day that is four business days after November 20, 2001, and ends on January 15, 2002, the date of receipt of the reply. This period of reinstatement is 50 days.

In addition, the response received on January 15, 2002, was a complete response. There was no delay until March 15, 2002, in providing a complete response. Thus, a period of reduction covering the period from January 15, 2002 to March 15, 2002, should not have been entered. This period equals 59 days.

In view thereof, the entire period of reduction associated with delay in responding to the Notice to File Missing Parts of Application of 85 days is being corrected to a period of reduction of 0 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is forty-seven (47) days.

It is further noted that applicants have met the requirements set forth in the Notice for waiver of the fee for consideration under 37 CFR § 1.705. Accordingly, the $200.00 fee under 37 CFR 1.18(e), although authorized, will not be charged to their Deposit Account.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication so that the patent can be issued. The patent term adjustment indicated on the patent will include any patent term adjustment accrued for Office delay in issuing the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of Revised PAIR Screen

#15
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 30 2004

OFFICE OF THE DIRECTOR
TC 3600

Russell D. Orkin
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

In re Application of
Mark Carnall
Application No. 09/922,496
Filed: August 3, 2001
For: KARABINERS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on March 18, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
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 _____.

☒ Originally sent response filed November 10, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

SNM/vdb: 4/27/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

MAR - 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Kwang-Bo Cho	:	
Application No. 09/922,507	:	NOTICE
Filed: August 3, 2001	:	
Attorney Docket No. 08305-101001 / 2009	:	

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 2612.

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. 5

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAILED
JAN 31 2003
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/922,507

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).

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