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993 GAPTER ROAD
BOULDER, CO 80303

Mail Date: 04/21/2010

Applicant	: Scott T. Brown	: DECISION ON REQUEST FOR
Patent Number	: 7584251	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/939,136	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/24/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1711** 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. 10

POLIT & ERICKSON, LLC
3333 WARRENVILLE ROAD, SUITE 520
LISLE, IL 60532

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NOV 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Mark R. Atkins :
Application No. 09/939,144 :
Filed: August 27, 2001 :
Attorney Docket No. 6380P0010US :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 20, 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 August 15, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b)/(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)2(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 19, 2004 accompanies this decision on petition.

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 3742 for consideration of the response filed August 4, 2003 to the July 18, 2003 Office communication.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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SEP 15 2006

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

In re Application of	:
Richard W. Voellmy	:
Serial No.: 09/939,161	: PETITION DECISION
Filed: August 24, 2001	:
Attorney Docket No.: MDH-100XCIT	:

This is in response to the petition under 37 CFR 1.181, filed July 26, 2006, requesting withdrawal of the Final rejection.

BACKGROUND

A review of the file history shows that applicant filed this application on August 24, 2001, with claims 1-22. The examiner mailed a restriction requirement to applicant on October 01, 2002. Applicant responded on November 18, 2002, electing the species of the chemical inducer of the stress protein response that is an arsenic salt and also requesting the examiner to add other species for the method claims.

The examiner mailed a non-final Office action to applicant on February 26, 2003, in which he:
Withdrew the restriction requirement;
Rejected claims 1, 10, 16, 17 and 20 under 35 U.S.C. 102(b) over Li et al USP 5,830,177;
Rejected claims 1-22 under 35 U.S.C. 103(a) over Li et al in view of Jimenez et al US 5,486,509.

Applicant responded with 5 pages of argument on May 12, 2003.

The examiner mailed another non-final Office action to applicant on August 12, 2003 in which he:
Rejected claims 1-15, 21 and 22 under 35 USC 112 first paragraph for the first time;
Withdrew the 35 U.S.C. 102 rejection of claims 1, 10, 16, 17 and 20, over Li et al; and
Maintained the 35 U.S.C. 103 rejection of claims 1-22 over Li et al. in view of Jimenez et al.

Applicant responded with 10 pages of argument, on January 20, 2004.

The examiner mailed a Final Office action to applicant on May 06, 2004, in which he:

Maintained the rejection of claims 1-15, 21 and 22 under 35 U.S.C. 112, first paragraph; and also
Maintained the 35 U.S.C. 103 rejection of claims 1-22 over Li et al. in view of Jimenez et al; and
Responded to the arguments and made the action final.

On September 23, 2004 applicant filed RCE papers canceling claims 1-15 and 21-22 and adding new claims 23-25, and presented a proper reply to the rejections of record. Canceling claims 1-15 and 21-22 overcame the 35 U.S.C. 112 rejection. Applicant further argued the 35 U.S. C. 103 rejection.

The examiner mailed a non-final Office action to applicant on October 05, 2004, in which he:
Withdrew the 35 U.S.C. 112 rejection as applicant had cancelled the claims;
Withdrew the 35 U.S.C. 103 rejection of claims 1-15 and 21 and 22 as applicant had canceled the claims;
Maintained the rejection of claims 16-20 under 35 U. S.C. 103 over Li et al in view of Jimenez et al; and
Rejected new claims 23-25 under 35 U.S.C. 103 over Li et al (USP 5,830,177) in view of Jimenez et al (USP 5,486,509).

Applicant responded on March 31, 2005, canceling claims 16-20 and 23-25 and adding new claims 26-33. Applicant also presented argument to overcome the 35 U.S.C. 103 rejection.

The examiner mailed a non final Office action to applicant on October 07, 2005, in which he:
Rejected new claims 26-33 under 35 U.S.C. 101 and 35 U.S.C. 112, first paragraph;
Withdrew the rejection of claims 16-20 and 23-25 under 35 U.S.C. 103 over Li et al. in view of Jimenez et al. since applicant had cancelled the claims.

Applicants responded with arguments on March 09, 2006, to overcome the 35 U.S. C. 101 and 35 U.S. C. 112, first paragraph rejections.

The examiner mailed a final Office action to applicant on June 01, 2006, in which he maintained the previous 35 U.S.C. 112 and 101 rejections and made the action Final.

In response applicants filed this petition on July 26, 2006, seeking withdrawal of the finality of the Office action.

DISCUSSION

Applicant argues that the Final Office action was premature or improper; therefore the finality should be withdrawn. Applicant submits that new grounds of rejections were articulated in the Office action and that these new grounds of rejections were neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Applicant states that, the Office has provided a new interpretation of the claims that was not set forth in the

previous Office action and applicant was not afforded an opportunity to address the issues articulated by the examiner.

Upon review of the file history, as given above, it is noted that the examiner made new grounds of rejection in the Office action mailed October 07, 2005. He did not make the action final even though the rejections were made on newly added claims. Applicants were given a chance to respond to the new rejections. In the final Office action mailed June 01, 2006 the examiner responded to applicant's arguments pointing out why the rejections were being maintained in view of the scope of the claims. The rejections did not change. The "alleged" new arguments were merely an explanation as to why the claim scope justified the rejection of record and applicant's arguments failed to overcome the rejection. Thus finality of the Office action was appropriate.

DECISION

The petition to withdraw the finality is **DENIED.**

Applicant remains under obligation to file a proper response to the Final Office action mailed June 1, 2006, within the time period set therein, or as extended under 37 CFR 1.136(a).

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

Bruce M. Kisliuk
Director, Technology Center 1600
wrd/rd

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PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Application of :
Raymond J. Werner :
Application No. 09/939,167 : ON PETITION
Filed: August 24, 2001 :
Attorney Docket No.: 71062.P006X

This is a decision on the petition filed April 21, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 17, 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 June 20, 2005. Accordingly, a Notice of Abandonment was mailed October 3, 2005.

Additionally, the mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c). Since the file does not indicate a change of address has been submitted, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of

[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 decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to Technology Center 2165 for appropriate action on the amendment filed April 17, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

RAYMOND J. WERNER
SUITE 314
2056 NW ALOCLEK DRIVE
HILLSBORO OR 97124

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231

Paper No. 11

Frederick H. Colen
REED SMITH LLP
P.O. Box 488
Pittsburgh PA 15230-0488

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AUG 15 2002

OFFICE OF PETITIONS

In re Application of :
Levitt et al. :
Application No. 09/939,209 : DECISION ON PETITION
Filed: August 24, 2001 :
Attorney Docket Number: :
01-139-US :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed on April 30, 2002, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior filed provisional application, number 60/228,021.

This Petition is hereby **granted**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5), and must be filed during the pendency of the nonprovisional application. In addition, the petition must accompanied by:

(1) the surcharge as set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5) and the date the claim was filed as unintentional; and

(3) the reference to the prior filed provisional application, supplied in an application data sheet, or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on August 24, 2001, within 12 months of the filing date of provisional application number 60/228,021, filed on August 24, 2000 for which priority is claimed. A reference to the prior filed provisional application has been included in an Amendment adding the reference to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5). Also, the petition was submitted during the pendency of the nonprovisional

application seeking the benefit of the prior filed provisional application. See 35 U.S.C. 119(e).

Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6), for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119(e), the petition to accept an unintentionally delayed claim of benefit of prior filed provisional application number 60/228,021, filed August 24, 2000, is granted as of the date of the filing of the petition.

A corrected filing receipt which includes the priority claim to provisional application number 60/228,021, filed August 24, 2001, along with the projected publication date of November 7, 2002, of the instant application accompanies this Decision.

This application will be forwarded to Technology Center 1600 for processing of the Amendment filed April 30, 2002, and for consideration of the claims under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior filed provisional application, number 60/228,021, filed on August 24, 2000.

Telephone inquiries concerning this matter should be directed to petitions attorney Derek L. Woods at (703) 305-0014.

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

Conferee: Frances Hicks

Enclosure: Corrected Filing Receipt

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EDWARDS ANGELL PALMER & DODGE LLP
111 HUNTINGTON AVENUE
BOSTON MA 02199

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In re Patent No. 6,800,447	:	
Issued: October 5, 2004	:	
Application No. 09/939,226	:	NOTICE
Filed: August 24, 2001	:	
Attorney Docket No. 9409/2023C	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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.

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 any future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KATHLEEN M. WILLIAMS
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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OFFICE OF PETITIONS

In re Application of :
Alan David Wickenden, et al. :
Application No. 09/939,230 : ON PETITION
Filed: August 24, 2001 :
Attorney Docket No. 018512-006610US :

This is a decision in response to the petition, filed July 23, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 18, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 19, 2008. On July 23, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on July 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 an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 1614 for appropriate action by the Examiner in the normal course of business on the amendment filed July 23, 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone 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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OFFICE OF PETITIONS

Applicant: Senarath et al.
Appl. No.: 09/939,231
Filing Date: August 24, 2001
Title: MULTIBEAM WIRELESS COMMUNICATIONS METHOD AND SYSTEM INCLUDING AN INTERFERENCE AVOIDANCE SCHEME IN WHICH THE AREA OF EACH TRANSMITTED BEAM IS DIVIDED INTO A PLURALITY OF SUB-AREAS
Attorney Docket No.: 1412.65616
Pub. No.: US 2002/0058514 A1
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 16, 2002 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

The application is being forwarded to the Office of Pre-Grant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO CA 92101

In re Application of:
WALKER, BLAIR D. et al
Serial No. 09/939,239
Filed: Aug. 24, 2001
Docket: 1156.036
Title: METHOD FOR A CENTRAL VENOUS LINE CATHETER HAVING A TEMPERATURE CONTROL SYSTEM

2/18/09

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed January 10, 2009 under 37 CFR § 1.181 requesting removal of Supplemental Examiner's Answer mailed on January 7, 2009 because the Supplemental Examiner's Answer was not signed by a Technology Center Director. This petition is being considered pursuant to 37 CFR § 1.181, and no fee is required.

The petition is dismissed.

In the petition, petitioner indicates that the Supplemental Examiner Answer mailed on January 7, 2009 does not bear the requisite Technology Center Director permission for a Supplemental Examiner's Answer. Therefor, petitioner opines that the paper is a mini-essay that is entitled to no weight or consideration and should be stricken from the record.

A review of the Supplemental Examiner's Answer of January 7, 2009 (at the top of page 3) does show a signature from a Technology Center Director. Therefore, the Supplemental Examiner's Answer is proper in accordance with MPEP § 1208.

In view of the presence of the Director's signature in the Supplemental Examiner's Answer as noted above, the petition is moot and subject to dismissal.

The application is being forwarded to the Board of Patent Appeals and Interferences for further process and docketing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

for

Donald T. Hajec, Director
Technology Center 3700

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

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Ivano Antonio Gagliardi, et. al. :
Application No. 09/939,287 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. CM2422 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on December 16, 2005, to revive the above-identified application.

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. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 1751.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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MARK J. BUONAIUTO, ESQ.
BAXTER INTERNATIONAL INC.
LAW DEPARTMENT
ONE BAXTER PARKWAY, DF2-2E
DEERFIELD, IL 60015

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OFFICE OF PETITIONS

In re Application of :
Yuan-pang Samuel Ding, et al. :
Application No. 09/939,294 : ON PETITION
Filed: August 24, 2001 :
Attorney Docket No. 1417Y P 524 (NPVC-5797) :

This is a decision on the petition under 37 CFR 1.137(b), filed April 19, 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 payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

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DEERFIELD, IL 60015

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OFFICE OF PETITIONS

In re Patent No. 7,011,872	: DECISION REGARDING PTA
Issued: March 14, 2006	: and NOTICE OF INTENT TO ISSUE
Application No. 09/939,294	: CERTIFICATE OF CORRECTION
Filed: August 24, 2001	:
Atty. Dkt. No.: 1417Y P 524	:
(NPVC-5797)	:

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed March 20, 2006.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 7,011,872 on March 14, 2006. The patent issued with a PTA of 258 days. The instant application for PTA was timely filed March 20, 2006. Patentees argue that the patent is entitled to an adjustment of 498 days and that the reduction of 120 days in connection with the submission of a response to the examiner's interview was in error.

Review of the application history reveals that patentees are correct. The adjustment was improperly reduced 120 days. The response to the examiner's interview submitted July 15, 2005 is not deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.705(c)(10).

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 378 days (567 days of USPTO delay minus 189 days of applicants' failure to engage in reasonable effort to conclude prosecution).

Receipt is hereby acknowledged of the required application fee of $200.00. The request for refund of the application is hereby dismissed as submission of the application fee is a prerequisite to treatment on the merits for any application submitted pursuant to 37 CFR 1.705 and is not subject to refund.

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 378 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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,011,872 B2
DATED	:	March 14, 2006
INVENTOR(S)	:	Ding, et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 258 days

Delete the phrase "by 258 days" and insert – by 378 days--

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

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OFFICE OF PETITIONS

In re Application of :
LEMMONS, et al. :
Application No. 09/939,306 : DECISION ON PETITION
Filed: August 24, 2001 : TO WITHDRAW
Attorney Docket No. INTE.14USU1 : 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 conditions set forth in 37 CFR 1040.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Marc Kaufman, Esq.
Nixon Peabody LLP
401 9th Street, N.W.
Suite 900
Washington, D.C. 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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DANIEL P. MCCARTHY
PARSONS, BEHLE & LATIMER
201 SOUTH MAIN STREET, SUITE 1800
P.O. BOX 45898
SALT LAKE CITY, UT 84145-0898

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APR 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Cao, Densen :
Application No. 09/939,339 : ON PETITION
Filed: August 24, 2001 :
Attorney Docket No. 5045.2 P :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 11, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment mailed November 29, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 30, 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 Technology Center 2800 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions
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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VAN COTT, BAGLEY, CORNWALL & MCCARTHY
P.O. BOX 45340
SALT LAKE CITY UT 84145-0340

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APR 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Cao, Densen	:	
Application No. 09/939,339	:	ON PETITION
Filed: August 24, 2001	:	
Attorney Docket No. 5045.2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 8, 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 payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: PTOL-85b

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

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
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

Morland C. Fischer
2030 Main Street, Suite 1050
Irvine, CA 92614

JUN 27 2003

In re Application of	:	
Kenneth A. Pieroni	:	DECISION ON PETITION
Application No. 09/939,405	:	TO WITHDRAW THE
Filing Date: August 27, 2001	:	HOLDING OF ABANDONMENT
Attorney's Docket No. CHMP-101D	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181 filed on February 24, 2003. There is no fee for this petition.

The petition is **GRANTED**.

A review of the application file reveals that a Notice of Abandonment was mailed on February 6, 2003 holding the application to be abandoned for failure to timely file a proper response to the Office letter (i.e., a restriction requirement) mailed on April 8, 2002.

Petitioner asserts that "on April 19, 2002, he held a telephone conversation with Examiner Garber during which an election was made (in response to a requirement for restriction) to continue the examination herein of Set II (i.e. Claims 19-28)." The evidence provided by the petitioner includes a copy of the telephone log from his office which shows a 1.5 minute telephone call to the examiner's phone number on April 19, 2003. Further evidence provided by the petitioner includes a copy of the front of the file jacket maintained by the petitioner for the above-noted application. The copy of the front of the file jacket includes a notation indicating a telephone election was made on April 19, 2003.

Although, as provided in 37 C.F.R. § 1.2, all business with the Patent and Trademark Office should be transacted in writing, the evidence provided by the petitioner is found to be convincing that an oral election was made.

Accordingly, the Notice of Abandonment mailed February 6, 2003 is **VACATED**.

The application is being forwarded to the Technical Center 2800 support staff for entry of the petition as a written election in response to the restriction requirement. The application will then be forwarded to the examiner for continued examination on the elected claims 19-28.

Any inquiries concerning this decision should be directed to Edward Westin at (703) 308-4823.

Howard N. Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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MAY 25 2006

OFFICE OF PETITIONS

In re Application of :
E. Mark Evers et al. :
Application No. 09/939,443 : ON PETITION
Filed: August 24, 2001 :
Attorney Docket No: JUBB301

This is a decision on the petition under 37 CFR 1.137(b)[1], filed November 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A Final Office Action was mailed August 16, 2004 setting a three month shortened statutory period for reply. No response or request for an extension of time having been filed in this application prior to the expiration of the time set for reply, this application became abandoned November 17, 2004. Accordingly, a Notice of Abandonment was mailed March 7, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no.11/281,944 filed November 16, 2005, pursuant to the provisions of 37 CFR 1.53(b).

---

[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)).

This matter is being referred to Technology Center 3621 for processing of the continuation application filed November 16, 2005.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SAN JOSE CA 95170-0640

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OFFICE OF PETITIONS

In re Application of :
SIU, et al. :
Application No. 09/939,454 : DECISION ON PETITION
Filed: August 24, 2004 : TO WITHDRAW
Attorney Docket No. SLKN-001/01US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 1, 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, "at the request of Raza Microelectronics, Inc.", does not meet any of the conditions set forth in 37 CFR 10.40.

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

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The 37 CFR statement filed on August 24, 2001 is improper because it does not contain the chain of title from the original owner to the assignee or the reel and frame number.

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: **Raza Microelectronics, Inc.**
Legal Department
18920 Forge Drive
Cupertino, CA 95014-0701

UNITED STATES PATENT AND TRADEMARK OFFICE

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
1200 - 19TH STREET NW, SUITE 500
WASHINGTON, DC 20036-2402

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of :
SIU, et al. :
Application No. 09/939,454 : DECISION ON REQUEST FOR
Filed: August 24, 2001 : REVOCATION OF POWER
Attorney Docket No. SLKN-001/01US 194504-2002 : OF ATTORNEY
:

This is a decision on the renewed Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed January 29, 2007.

The request is **NOT APPROVED.**

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because it is not signed by an inventor of record as indicated on the request. If the signature of Mr. L. William Caraccio is that of the assignee, a statement under 37 CFR 3.73(b) is also required.

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: STEVENS LAW GROUP
P.O. BOX 1667
SAN JOSE, CA 95109

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 17

Thomas J. Engellenner, Esq.
Nutter McClennen & Fish, LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

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MAR 26 2003

OFFICE OF PETITIONS

In re Application of :
Matthew During, et al. :
Application No. 09/939,472 : ON PETITION
Filed: August 24, 2001 :
Attorney Docket No. 104036-0017 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed July 18, 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 August 19, 2002.

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

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

The application file is being forwarded to Technology Center 1600, Art Unit 1646.

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

Sherry D. Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, Illinois 60610

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NOV 28 2006

OFFICE OF PETITIONS

In re Application of
Subramanian et al.
Application No.09939498
Attorney Docket No.10519-30

:DECISION GRANTING PTA LETTER

This decision is in response to APPLICANTS' COMMUNICATION CONCERNING PATENT TERM ADJUSTMENT TIMELY[1] FILED ON February 16, 2006 requesting that the Office review the PTA determination to determine if the Office correctly determined the PTA.

Patentees' letter regarding PTA is **GRANTING**.

Applicants assert that the Office erred by attributing a 219-day delay to THE Office for the noncompliant amendment rather than to applicant.

Applicant's arguments are persuasive. The Office notes that the RCE submission was non-compliant and applicant not the Office should have received the delay. Accordingly, the adjustment will be made to the PTA determination.

After the mailing of this decision, the patented file will be forwarded to the Office of Patent publications for a prompt issuance of the patent. Any delays by the USPTO pursuant to 37 CFR 1.702(a)(4) or 1.702(b) will be added to the determination at the time of the issuance of the patent and will be reflected in the issue notification letter that is mailed to applicant approximately three weeks prior to the issue of the patent.

No fee is required for this letter of good faith and candor.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

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

cc: PTA determination

[1]Issue fee paid on February 16, 2006.

Day : Monday
Date: 11/27/2006

PALM INTRANET

Time: 14:17:43

PTA Calculations for Application: 09/939498			
Application Filing Date:	08/24/2001	PTO Delay (PTO):	219
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	444
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-438		

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60	12/27/2005	ISSUE REVISION COMPLETED			
59	12/27/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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57	12/27/2005	NOTICE OF ALLOWABILITY			
56	10/18/2005	DATE FORWARDED TO EXAMINER			
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49	07/18/2005	REFERENCE CAPTURE ON IDS			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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APR 16 2002

#5

Jacqueline E. Hartt
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P.O.Box 3791
Orlando, Florida 32802

In re Application of :
M. Jaroszeski et al :
Serial No.: 09/939,518 : Re: Request for Withdrawal as Attorney
Filed: 24 August 2001 :
Attorney Docket No. 93004 :

BEST AVAILABLE COPY

This letter is in response to the Request for Withdrawal as Attorney received 26 March 2002.

The Oath/Declaration filed 29 January 2002 lists 13 attorneys/agents besides Dr. Hartt, who signed this request for withdrawal as attorney. In contrast, the request to withdrawal as attorney of record lists 12 attorneys in addition to Dr. Hartt. Moreover the lists are not co-extensive. Ms. Hill is listed on the request but is not listed in the Oath/Declaration. Mr. Whittle and Mr/Ms. Najafi are listed on the Oath/declaration but are not listed on the request. It is not clear whether power of attorney for only 12 of the original attorneys is being withdrawn, whether power of attorney is being retained for Mr. Whittle and Mr./Ms. Najafi or whether all original power of attorneys are being withdrawn.

This request is **DISMISSED** for the reasons set forth above.

Should there be any questions with regard to this letter, please contact Julie Burke by letter addressed to the Director, Technology Center 1600, Washington DC 20231 or by telephone at (703) 308-7553 or by facsimile transmission at (7030 308-7230.

JBurke

Julie Burke
Special Program Examiner
TC1600

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Paper No. 15

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

BS

~~Certificate~~
~~FEB 0 9 2005~~
~~of Correction~~

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application Seed et al.
Application No. 09/939,537
Filed: August 24, 2001
Atty Docket No. 00786/247003

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed December 22, 2003. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred forty-seven (347) days to three hundred seventy-two (372) 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 seventy-two **(372)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 31, 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 347 days. The period of adjustment of 372 days for Office delay was reduced by 25 days for applicant delay. On December 22, 2003, 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 372 days. Applicants dispute the reduction of 25 days attributed to their delay in responding to the Notice to File Missing Parts of Application mailed October 31, 2001. Applicants state that a complete reply was received in the Office on January 16, 2002, and thus, there should have been no reduction for applicant delay on this basis. In support thereof, applicants submit a copy of their properly itemized and date-stamped postcard.

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

Applicants are correct. Their response to the Notice to File Missing Parts of Application mailed October 31, 2001, is of

[1] PALM records indicate that the Issue Fee was also received in the Office on December 22, 2003.

record in the application with a date of receipt by the Office of January 16, 2002. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 25 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 three hundred seventy-two (372) days.

Applicants submitted $400 for the fee set forth in 37 CFR 1.18(f). However, the appropriate fee for consideration of this application for patent term adjustment pursuant to § 1.705(b) is the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The overpayment of $200 has been refunded to Deposit Account No. 03-2095, as authorized.

It is noted that on July 14, 2004, the Office mailed a NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)(3) in the instant application. Pursuant to that Notice, the application file is being returned to Technology Center 1600 for appropriate action.

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

/Karin Ferriter/

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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WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of :
Heiko Hermeking et al :
Application No. 09/939,581 : NOTICE
Filed: August 28, 2001 :
Attorney Docket No. 01107.00187 :

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This application file is being referred to Publishing Division.

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

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1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

APR 20 2010

OFFICE OF PETITIONS

In re Patent of Kawaguchi et al. :
Patent No. 7,531,488 :
Issue Date: May 12, 2009 :
Application No. 09/939,599 :
Filing Date: August 28, 2001 :
Attorney Docket No. 230086US0CONT :

DECISION ON APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the petition filed June 26, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand five hundred forty-seven (1,547) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred forty-seven (1,547) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to file any request for reconsideration of the determination of patent term adjustment set forth in this decision. No extensions of time will be granted under 37 C.F.R. § 1.136.

Issue 1

The petition asserts the patent term adjustment should have included an increase of 569 days as a result of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). However, a review of the record indicates the patent term adjustment should have included an increase of 568 days as a result of B Delay.

The petition states the period of B Delay is 1,159 days.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination. Although Patentees recognized the need to exclude a time period due to the RCE, Patentees failed to exclude the actual date the RCE was filed from the period of B Delay.

B Delay is 1,158 days, not 1,159 days, after removal of the time period consumed by continued examination but before removal of any time period pursuant to 35 U.S.C. § 154(b)(1)(B)(ii).

Pursuant to 35 U.S.C. § 154(b)(1)(B)(ii), B Delay does not include any time period consumed by appellate review. Therefore, B Delay does not include the 125 days consumed by appellate review as a result of the Notice of Appeal filed June 28, 2007.

B Delay is 1,033 days after the period of time consumed by appellate review is excluded from the period of delay.

The petition asserts the number of days of overlap is 590 days. However, the Office has determined the number of days of overlap is 465 days.

In view of the prior discussion, the patent term adjustment should have included an increase of 568 (1,033 - 465) days as a result of non-overlapping B Delay.

Issue 2

Patentees contend the Office acted improperly when the Office entered a reduction of 41 days under 37 C.F.R. § 1.704(c)(10) for the filing of a Supplemental Application Data Sheet ("ADS") on March 3, 2009.

Background

The original declaration listed addresses for the assignee as the mailing addresses for the inventors. For example, the declaration listed the mailing address for the first inventor as: "c/o Idemitsu Kosan Co., Ltd., 1280, Kamiizumi Sodegaura-machi, Kimitsu-gun, Chibaken, Japan." The original declaration identified the residential address for each inventor as "Same as Post Office Address."

When addresses in Japan are written in English, the last non-numeric term listed before the country's name is normally a prefecture. The city name is the term immediately preceding the name of the prefecture.

By including a city name as part of the mailing address of each inventor and stating the residential address was the same as the mailing address, the declaration did identify the city of residence for each of the inventors.

The individual as the Office who entered the residential address information for each inventor into Office records appears to have been unfamiliar with the format used when setting forth an address in English on correspondence mailed to Japan. The individual at the Office who entered the residential address information from the declaration assumed the name listed in the address prior to the country name of Japan was the city name for the mailing address. As a result, the individual entered "Chiba-ken" as the city of residence for the first two inventors. The Office entered "Ichihara-shi" as the city of residence for the third inventor. The Office entered Tokyo as the city of residence for the fourth inventor.

A proper interpretation of the declaration is the city of residence is:

(1) Kimitsu-gun for the first inventor,
(2) Kimitsu-gun for the second inventor,
(3) Ichihara-shi for the third inventor, and
(4) Chiyoda-ku for the fourth inventor.

Although the filing receipt identified the city of residence entered by the Office for each inventor, Patentees did not take any steps to clarify the city of residence for the inventors.

A revocation of the prior power of attorney and a new power of attorney to a customer number associated with the current representatives of record was filed June 17, 2004.

When the Office mailed a Notice of Allowance and a Notice of Allowability on January 30, 2009, the examiner did not recognize the need for clarification of the city of residence for each inventor. As a result, the examiner did not require the submission of a supplemental ADS or supplemental oath or declaration.

Patentees submitted a Supplemental ADS on April 2, 2009, with payment of the issue fee. The ADS clearly indicated the city of residence is:

(1) Kimitsu-gun for the first inventor,
(2) Kimitsu-gun for the second inventor,
(3) Ichihara-shi for the third inventor, and
(4) Tokyo for the fourth inventor.

The Office notes the declaration and ADS both fail to properly set forth a mailing address for each of the inventors. Specifically, both documents fail to include a postal code as part of the mailing addresses.

The Office entered a reduction of 41 days under 37 C.F.R. § 1.704(c)(10) as a result of the filing of the supplemental ADS after the Office had mailed a Notice of Allowance.

Discussion

37 C.F.R. § 1.704(c)(10) states,

> [Upon] [s]ubmission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed ... the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months.

Clarification of the Office's interpretation of the scope of 37 C.F.R. § 1.704(c)(10) is set forth in Manual of Patent Examining ("MPEP") § 2732 (8th ed., Rev. 7, July 2008). MPEP § 2732 states,

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.... Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).
>
> The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application:
>
> (1) Fee(s) Transmittal (PTOL- 85B);
> (2) Power of Attorney;
> (3) Power to Inspect;
> (4) Change of Address;
> (5) Change of Status (small/not small entity status);
> (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and
> (7) letters related to government interests (e.g., those between NASA and the Office).
>
> Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include:
>
> (1) a request for a refund;
> (2) a status letter;
> (3) amendments under 37 CFR 1.312;
> (4) late priority claims;
> (5) a certified copy of a priority document;
> (6) drawings;
> (7) letters related to biologic deposits; and
> (8) oaths or declarations.

Patentees contend the ADS falls within the "Change of Address" exception listed above.

Although the declaration identified the city of residence, the declaration failed to properly identify the city of residence. The city of residence for an inventor is not properly identified when the city of residence is identified in a manner requiring Office employees to have knowledge of the mailing addressing formats used in other countries in order to recognize the city of residence.

The Office contends the failure by the declaration to clearly identify the city of residence is tantamount to a failure to include the city of residence in the declaration. In practical terms, the ADS was a paper submitting the city of residence for the very first time, not a paper changing the city of residence properly supplied in the declaration. MPEP § 2732 does not include an exception for an ADS providing residential addresses for inventors for the first time.

Even if the Office determined the original declaration properly provided the city of residence for each inventor, the ADS would not be a paper that only changed the residential address for each inventor. The ADS only changed the city of residence for the fourth inventor. The ADS clarified, but did *not* change, the city of residence for the other three inventors.

Patentees argue an ADS that only changes address information for inventors falls within the scope of a "Change of Address." However, Patentees fail to discuss the inconsistency such an interpretation could create within the provisions of MPEP § 2732

MPEP § 2732 explicitly states the submission of an oath or declaration after allowance will be considered a failure to engage in reasonable efforts to conclude processing or examination of the application. If a supplemental declaration that only changes address information for an inventor is filed after allowance, adopting Patentee's interpretation of "Change of Address" would result in the declaration falling within a group of papers explicitly listed as not resulting in a reduction while at the same time falling within a group of papers the Office has explicitly indicated will result in a reduction.

In view of the prior discussion, the Office acted properly when the Office entered a reduction of 41 days under 37 C.F.R. § 1.704(c)(10) as a result of the filing of the supplemental ADS after the Office had mailed a Notice of Allowance.

Conclusion

The period of A Delay is 1,260 days.

The period of B Delay is 1,033 days.

The amount of overlap between A and B Delay is 465 days.

The period of Applicant Delay is 323 days and properly includes a 41-day reduction under 37 C.F.R. § 1.704(c)(10).

The patent term adjustment for the patent is 1,505 days which is the sum of 1,260 days of A Delay and 1,033 days of B Delay reduced by 465 days of overlap and 323 days of Applicant Delay.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand five hundred five (1,505)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,531,488 B2
ISSUE DATE	:	May 12, 2009
INVENTOR(S)	:	Kawaguchi et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 937 days.

Delete the phrase "by 937 days" and insert - by 1505 days--

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OFFICE OF PETITIONS

In re Application of
Roberts
Application No. 09/939,624
Filed: August 28, 2001
Attorney Docket No. 42092

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

This is in response to the "Petition under 37 CFR 1.181 to Consider .... Abandonment," filed November 12, 2002, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application .

The petition to revive the instant nonprovisional application under 37 CFR 1.137(b) is **GRANTED**.

The petition includes a copy of the "Request to Rescind Previous Nonpublication Request," PTO/SB/36 (11-00), signed August 15, 2002 (received by the USPTO on August 15, 2002), and a "Request to Rescind Previous Nonpublication Request," PTO/SB/36 (10-01), signed November 12, 2002. Petitioner argues that the first-filed request to rescind should be treated as a notification of foreign filing. Petitioner argues that language added to the USPTO form for a Request to Rescind was already implicit in the previous version of the USPTO form, and that "the filing of a Request to Rescind is a tacit notice to the Director that the subject application is being filed internationally and/or in one or more foreign states." Furthermore, petitioner states that 35 U.S.C. § 122(b)(2)(B)(iii) does not specify a format in which the notice must be given, and that by filing of the rescission notice just prior to the anniversary of the filing date, applicant provided "*de facto* notice that one or more foreign or international filings have occurred or would be occurring." Moreover, petitioner argues that filing an international application in the PCT Receiving Office can also be considered sufficient notice to the Director. Lastly, petitioner quotes from 35 U.S.C. § 122(b), and relies upon the phrase "regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional" to argue that Congress intended applications to only be considered abandoned where the delay is shown to have been intentional. In the alternative, petitioner requests that the petition be treated under 37 CFR 1.137(b).

35 U.S.C. § 122(b)(2)(B) states:

> (i) If an applicant makes a request upon filing, certifying that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided in paragraph (1).
>
> (ii) An applicant may rescind a request made under clause (i) at any time.

> (iii) An applicant who has made a request under clause (i) but who subsequently files, in a foreign country or under a multilateral international agreement specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

37 CFR 1.213 implements the provisions of 35 U.S.C. § 122(b)(2)(B).

Most patent applications filed on or after November 29, 2000 will be published, unless applicant files a request for nonpublication in compliance with 37 CFR 1.213(a). A nonpublication request is required to contain a certification that "the invention disclosed in the application has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement that requires publication at eighteen months after filing." Applicants who do not plan to file in another country are not required to file such a certification, and given that provisional rights (see 35 U.S.C. § 154(d)) may be available to those who have their patent applications publish, some applicants who do not plan to file in another country may elect to have their application published to be eligible for provisional rights. As a result, the filing of a rescission of a nonpublication request does not imply that the invention has been or will be filed in another country, and instead suggests that applicant now desires to have the application published in the United States.

Furthermore, 35 U.S.C. § 122(b)(2)(B)(ii) addresses rescission. If all rescissions provided notice of foreign filing, then 35 U.S.C. § 122(b)(2)(B)(iii), which requires applicants to provide notice of foreign filing within a set time period, would have provided that the "rescission specified in clause (ii) must be filed no later than 45 days after the date of foreign filing." Instead, clause (iii) merely specified that an "applicant who has made a request under clause (i)...shall notify the Director of such filing no later than 45 days after the date of such filing" and does not itself require such an applicant to rescind the nonpublication request. Implicit in providing notice of foreign filing is a rescission of the nonpublication request, but not *vice versa*. Thus the statute clearly identifies rescission of a nonpublication request and notification of a foreign filing as two separate acts, and a rescission in and of itself cannot be construed as notice of foreign filing.

As to the arguments that no specific notice is required and that filing an international application in the United States Receiving Office was a notification of foreign filing, these arguments are also not persuasive. 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, so a notification of foreign filing was required to be on a separate paper from another matter (such as a new application), and so filing a copy of the international application in the above-identified

application would not have been notice of foreign filing.

On August 15, 2002, a Patent Cooperation Treaty application, Application No. PCT/US02/25800, was filed. A review of the contents of the file of the above-identified application shows that no notification of the filing of the PCT application was filed within 45 days after the filing date of the PCT application. As a result of petitioner's failure to provide 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), the above-identified application became abandoned midnight Monday September 30, 2002 (September 29, 2002 being a Sunday).

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

(1) 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.

See 37 CFR 1.137(b) and (f).

The statement in the petition that "Applicant did not at any time intend to abandon the subject application" will be construed as meaning that "the entire delay in filing the required reply [the notification of the filing of the PCT application] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized, the required $1,280 petition fee will be charged to Deposit Account No. 18-2220.

Any inquiries concerning this decision may be directed to Mark Polutta at (703) 308-8122.

This application is being forwarded to Technology Center Art Unit 2681 to await further examination in due course.

Karin Ferriter

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: MAR 1 2004

spg
Paper Number 10

In re application of :
Noriyuki Arai et al. : DECISION ON
Serial No. 09/939,644 : PETITION
Filed: August 28, 2001 :
For: THERMOPLASTIC RESIN COMPOSITION AND MOLDING :
THEREOF :

This is a response to the PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT, received September 29, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed July 31, 2003, be withdrawn since the applicant did not receive the Office letter mailed November 20, 2002.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Office letter, mailed November 20, 2002. The evidence provided includes a statement by the petitioner that the Office letter, mailed November 20, 2002 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter was not received. Also provided is a copy of the attorney's application docket records where the Office letter would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Office letter originally mailed November 20, 2002 and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/29/07 **Paper No.:** _____

TO SPE OF : ART UNIT David Dunn (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/939644 Patent No.: 6951368

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.

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: _____

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_____ _____
SPE Art Unit

09/939646

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/1/07

Paper No.: _____

TO SPE OF : ART UNIT 3636 David Dunn (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/939646 Patent No.: 6951368

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.

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: _____

DAVID DUNDE

3636
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

VENABLE LLP
P.O. BOX 34385
WASHINGTON, D.C. 20043

Paper No.
COPY MAILED
OCT 0 2 2006
OFFICE OF PETITIONS

In re Patent No. 7,023,805	:	DECISION ON REQUEST
Katsutoshi TAJIRI et al.	:	FOR RECONSIDERATION OF
Application No. 09/939,730	:	PATENT TERM ADJUSTMENT
Filed: August 28, 2001	:	and
Atty Docket No. 31762-174923	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed May 10, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from eight hundred and fifty-one (851) days to eight hundred and ninety-four (894) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of eight hundred and ninety-four (894) days.

On April 4, 2006, the above-identified application matured into U.S. Patent No. 7,023,805, with a revised patent term adjustment of 851 days. The initial determination of patent term adjustment of 891 days was increased by 3 days for Office delay in issuing the patent and reduced by 43 days for the filing of an Information Disclosure Statement (IDS) after the mailing of the Notice of Allowance. On May 10, 2006, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days is 894 days. Patentees dispute the reduction of 43 days for filing of a "Request for Acknowledgement" of an Information Disclosure Statement (IDS) on December 1, 2005. Patentees believe it was Office error on the USPTO for recognizing this document as an IDS instead of a request for acknowledgement.

Patentees' arguments have been considered. Patentees are advised that the filing of both an IDS and a Request for Acknowledgment may be considered a failure to engage in reasonable efforts within the meaning of 1.704(c)(10). See MPEP 2732. However, in this instance, the application history has been reviewed and it is concluded that under the circumstances the filing of the request for acknowledgment of IDS should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). Patentees filed IDSs on August 28, 2001 and January 6, 2004. Accompanying the non-final Office action mailed April 6, 2005 was an initialled 1449 in response to the January 6, 2004 IDS. With respect to their earlier filed IDS, patentees made a further request for an initialled 1449 with their response filed July 6, 2005. Nonetheless, the Notice of Allowance mailed September 16, 2005 did not include an initialled 1449. In view thereof, it is concluded that the reduction of 43 days for making a request for initialled IDS after the mailing of the notice of allowance is not warranted.

In view thereof, the patent should have issued with a revised patent term adjustment of 894 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **EIGHT HUNDRED AND NINETY-FOUR (894)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,023,805 B2

DATED : April 4, 2006

INVENTOR(S) : Tajiri et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (851) days

Delete the phrase "by 851" and insert – by 894 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB - 6 2004

AGOURON PHARMACEUTICALS, INC.
10350 NORTH TORREY PIINES ROAD
LA JOLLA, CA 92037

In re Application of	:
Michele A. McTigue et al	:
Serial No.: 09/939,754	: PETITION DECISION
Filed: August 28, 2001	:
Attorney Docket No.: PC19055E/AG0069	:

This is in response to the petition under 37 CFR 1.181, filed January 22, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on July 1, 2003, setting a one three shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed January 16, 2004. Applicants state that a reply was submitted on August 5, 2003, and provide a copy of the reply with a properly executed Certificate of Mailing dated August 5, 2003 and an Office date stamped postcard indicating receipt by the Office on August 7, 2003. In view of applicants' timely reply the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

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

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

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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THORP REED & ARMSTRONG
ONE OXFORD CENTRE
301 GRANT STREET
PITTSBURGH PA 15219-1425

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JUL 17 2009

OFFICE OF PETITIONS

In re
Yu, et al.
Application No. 09/939,783
Filed: August 28, 2001
Patent No. 6,944,399
Issued: September 13, 2005

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed May 13, 2009.

The fee deficiency submission under 37 CFR 1.28 of $490, representing the difference between the small entity and large entity 3 ½ year maintenance fee, is hereby **accepted**.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may 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 : 06-01-06

TO SPE OF : ART UNIT 2665

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/939798** Patent No **7016348**

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

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

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

A. Green

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: _____

_____

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_____

_____

_____ 2616

SPE **Art Unit**

OIPE IAP45
MAY 17 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Confirmation No.: 2881
LAURSEN *et al.*	Art Unit: 2665
Patent. No.: 7,016,348	Examiner: Clemence S. Han
Issued: March 21, 2006	Atty. Docket: 2013.0060000
For: **Method and System for Direct Access to Web Content Via a Telephone**	

Request for Certificate of Correction Under 37 C.F.R. § 1.322

Attn: Certificate of Correction Branch

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

It is hereby requested that a Certificate of Correction under 37 C.F.R. § 1.322 be issued for the above-captioned United States Patent. This Certificate of Correction is being requested due to mistakes which appear in the printed patent. These mistakes were made by the U.S. Patent and Trademark Office.

Specifically, the printed patent contains the following errors for which a Certificate of Correction is respectfully requested:

In column 22, beginning on line 25, claims 21 and 22 should be inserted as follows:

MAY 19 2006

--21. The method of claim 20, further comprising processing a video stream in the web video content prior to transporting the video stream from the video stream processor to the communications device.

22. The method of claim 21, wherein said processing includes at least one of the following steps: inserting additional video into the video stream, converting the video stream from one format to another format, enhancing video stream, and modifying video in the video stream.--.

Support for this correction can be found on page 2 of the Notice of Allowability where the Examiner states that "Claims 1-22 are allowed." A copy of the Notice of Allowability is included as Exhibit A. The Notice of Allowability was in response to Applicants' amendment mailed on July 19, 2005 which included claims 21 and 22. A copy of the July 19, 2005 amendment is included as Exhibit B.

Remarks

The above-noted corrections do not involve such changes in the patent as would constitute new matter or would require reexamination.

A completed Form PTO/SB/44 accompanies this request, with the above-noted corrections printed thereon. Accordingly, a Certificate of Correction is believed proper and issuance thereof is respectfully requested.

MAY 19 2006

The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Lori A. Gordon

Lori A. Gordon
Attorney for Patentees
Registration No. 50,633

Date: MAY 17, 2006

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

527225_1.DOC

MAY 19 2006

MAY 19 2006

OIPE IAP45 MAY 17 2006 PATENT & TRADEMARK OFFICE

Notice of Allowability	Application No.	Applicant(s)	
	09/939,798	LAURSEN ET AL.	
	Examiner	Art Unit	
	Clemence Han	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *amendment received on 07/19/2005*.

2. ☒ The allowed claim(s) is/are ~~1-20~~ 1 – 22.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

MAY 2006

MAY 19 2006

DETAILED ACTION

Allowable Subject Matter

1. Claim 1-22 are allowed.

2. The following is an examiner's statement of reasons for allowance:

The present invention is directed to a method of providing web audio content directly from audio source. The closest prior art, Jimenez et al. (WO 01/52503), teaches providing web audio content form audio source to the user. Jimenez, however, does not teach an internal channel between the network interface controller and the audio source through a cell switch internal to the media server. These features are claimed in the independent claims and render them allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is

MAY 19 2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 18 2009

TO SPE OF : ART UNIT 2625
SUBJECT : Request for Certificate of Correction for Appl. No.: 09/939808 / 7310158
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: The request for Certificate of Correction file on 01/05/09 which is accepted by the Examiner.

_____ **SPE**

2625 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/15/05

TO SPE OF : ART UNIT **2871**

SUBJECT : Request for Certificate of Correction on Patent No.: 09/939845 6856373

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

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

Thank You For Your Assistance

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

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

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

Comments:

_____

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_____ 2871

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 20 2002

Paper No. 8

In re Application of :
Reuben Hertz : DECISION ON PETITION
Application No. 09/939,865 :
Filed: August 27, 2001 :
For: Handheld Apparatus for Delivery of Particulate Matter With Directional Flow Control

This is a decision on the petition filed on September 17, 2001 by which petitioner requests that this application be accorded special status for advanced examination out of turn. The $130.00 petition fee has been received.

The petition is granted.

Petitioner requests special status on the basis of the practice established in MPEP § 708.02(II), Infringement. A review of the materials submitted in support of the petition show that all of the required elements for a petition on that basis have been satisfied.

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3723, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

ALLEN D. HERTZ
12784 TULIPWOOD CIRCLE
BOCA RATON, FL 33428

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN D. HERTZ
12784 TULIPWOOD CIRCLE
BOCA RATON, FL 33428

COPY MAILED

DEC 29 2006

OFFICE OF PETITIONS

In re Application of :
Reuben Hertz :
Application No. 09/939,865 : ON PETITION
Filed: August 27, 2001 :
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.181 filed on September 5, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on July 29, 2006, after no response was received to the Notice of Allowance and Issue Fee Due mailed April 28, 2006, which set a statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on July 29, 2006. A Notice of Abandonment was mailed on August 30, 2006.

In the instant petition, petitioner maintains that the issue fee and publication fee were timely paid, but were directed to an incorrect application because petitioner used an issue fee transmittal form belonging to another patent application.

A review of the evidence submitted with the instant petition reveals that the issue fee transmittal form filed to pay the issue and publication fees did not contain any identifier that would have allowed the Office to match the payments with the correct application. The application is correctly noted as abandoned because the neither the issue fee payment or the publication fee were noted as being received in the patent application 09/939,865 prior to the expiration of the three month statutory period and applicant provided no reasonable way for the Office to associate the payments made with the correct application. The petition is dismissed accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The issue fee payment and publication fee payment that is currently credited to patent application 10/704,517 will be transferred to patent application 09/939,865.

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

By mail:	Commissioner for Patents United States Patent and Trademark Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300 Attn: Office of Petitions

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 20 2007

OFFICE OF PETITIONS

ALLEN D. HERTZ
12784 TULIPWOOD CIRCLE
BOCA RATON, FL 33428

In re Application of :
Reuben Hertz :
Application No. 09/939,865 : ON PETITION
Filed: August 27, 2001 :
Attorney Docket No.

This is a decision on the renewed petition under 37 CFR 1.181 filed on January 20, 2007, to withdraw the holding of abandonment. This is also a decision on the petition under 37 CFR 1.137(b) also filed January 20, 2007.

The renewed petition under 37 CFR 1.181 is **DISMISSED.**

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

TREATMENT UNDER 37 CFR 1.181

The application became abandoned on July 29, 2006, after no response was received to the Notice of Allowance and Issue Fee Due mailed April 28, 2006, which set a statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on July 29, 2006. A Notice of Abandonment was mailed on August 30, 2006.

In the instant renewed petition, petitioner maintains that the issue fee and publication fee were timely paid, but were directed to an incorrect application because petitioner used an issue fee transmittal form belonging to another patent application. Petitioner concedes that none of the identifiers cited on the issue fee transmittal were correct, but that the USPTO had sufficient time before the expiration of the three-month statutory period for reply to the Notice of Allowance and Issue Fee Due to inform petitioner of the error.

Section 502 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> All correspondence related to a national patent application already filed with the U.S. Patent and Trademark Office must include the identification of the application number or the serial number and the filing date assigned to the application by the Office. Any correspondence not containing the proper identification set forth in 37 CFR 1.5(a) will be returned to the sender by OIPE. Each paper should be inspected to assure that the papers being returned contain either an "Office Date" stamp or a TC date stamp. A minor error in the identification of the application can be 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. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or

> erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions.

A review of the evidence submitted with the instant petition reveals that the issue fee transmittal form filed to pay the issue and publication fees did not contain any identifier that would have allowed the Office to match the payments with the correct application. The submission of an issue fee transmittal form containing no identifier that would have permitted the USPTO to match the form with the correct application is not a minor error. Once an action is issued, such as the Notice of Allowance and Issue Fee Due, it is incumbent upon the applicant to ensure that a proper and timely response is filed prior to the expiration of the period set for reply. Where such a flagrant error in identifying an application is made, the USPTO does not have to go through extraordinary means to match a response to its correct application. It is again concluded that the application is correctly noted as abandoned because the neither the issue fee payment or the publication fee were noted as being received in the patent application 09/939,865 prior to the expiration of the three month statutory period and applicant provided no reasonable way for the Office to associate the payments made with the correct application. The petition under 37 CFR 1.181 is dismissed accordingly.

The issue fee payment and publication fee payment credited to patent application 10/704,517 has been transferred to patent application 09/939,865.

TREATMENT UNDER 37 CFR 1.137(b)

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 requirements of item (2) above.

The petition fee of $750.00 was not found with the instant petition, despite petitioner's assertion to the contrary. The renewed petition must be accompanied by the petition fee in order to be considered grantable.

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

By mail:	Commissioner for Patents United States Patent and Trademark Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300 Attn: Office of Petitions

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN D. HERTZ
12784 TULIPWOOD CIRCLE
BOCA RATON, FL 33428

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APR 30 2007

OFFICE OF PETITIONS

In re Application of

Reuben Hertz

Application No. 09/939,865

Filed: August 27, 2001

Attorney Docket No.

: DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), January 20, 2007, to revive the above-identified application.

The decision mailed April 20, 2007, is **vacated.**

The renewed petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed April 28, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on July 29, 2006. A Notice Abandonment was mailed August 30, 2006.

The issue fee and publication fee were received on September 5, 2006.

Form PTOL-85B, filed September 5, 2006, is noted and made of record.

The petition fee was received on April 26, 2007.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may 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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United States Patent and Trademark Office
P.O. Box 1450
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Elsa Keller
SIEMENS CORPORTION
Intellectual Property Department, Legal Assistant
186 Wood Avenue South
Iselin, NJ 08830

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NOV 10 2005

OFFICE OF PETITIONS

In re Application of :
Kevin O'Rourke :
Application No. 09/939,886 : ON PETITION
Filed: August 27, 2001 :
Attorney Docket No. 2001P07800US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on October 18, 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 Notice of Appeal with the $500 fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application file is being referred to Technology Center 2174.

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

Andrea Smith
Petitions Office
Office of Petitions

cc: Siemens Corporation
170 Wood Avenue South
Iselin, NJ 08830

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Commissioner for Patents
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P.O. Box 1450
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JACK P. FRIEDMAN
SCHMEISER OLSEN & WATTS
3 LEAR JET LANE, SUITE 201
LATHAM, NY 12110

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MAR 22 2005

OFFICE OF PETITIONS

In re Application of :
David Paul Agnello et al :DECISION DISMISSING
Application No. 09/939,895 : PETITION UNDER
Filed: August 27, 2001 : 37 CFR 1.137(a)
Attorney Docket No. BU9-98-183-US2 :

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

The petition is **DISMISSED**.

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

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

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 4, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for

allowance or Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 5, 2003. A Notice of Abandonment was mailed on August 24, 2004.

ISSUE

Petitioner states unavoidable delay was due to nonreceipt of the Advisory Action mailed on September 2, 2003.

APPLICABLE STATUTE AND RULE

35 U.S.C. § 133 states:

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

37 CFR 1.135 states in pertinent part:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise;
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

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).

OPINION

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). In this regard, petitioner should note that a proper response to a final rejection (such as the Office action of June 4, 2003) must be in the form of an appeal, Request for Continued (RCE) pursuant to the provisions of 37 CFR 1.114, or the filing of a continuation application. The filing of an amendment placing the application in condition for allowance is permitted under the rules, but entry of such an amendment is not a matter of right. It is unfortunate that the Advisory Action of September 2, 2003 was not received by applicant. However, it is clear from 37 CFR

1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The rule clearly indicates that the mere filing of an amendment does not relieve petitioner of the duty of taking appropriate action to save the application from abandonment. Therefore, whether petitioner received an Advisory Action or not prior to the expiration of the six month statutory period, the only right petitioner was entitled to was that of appealing the final rejection, filing an RCE pursuant to the provisions of 37 CFR 1.114 or by filing a continuing application pursuant to the provisions of 37 CFR 1.53(b). This application became abandoned for failure on the part of petitioner to file the appropriate reply to continue prosecution. Petitioner has not stated what steps were taken to maintain pendency of the application after the filing of the response received on July 31, 2003 in view of the terms set out in 37 CFR 1.116. When petitioner did not receive a response before the expiration of the six month statutory period, the appropriate action would have been to (1) inquire as to the status of the application, or (2) file a Notice of Appeal (RCE or a continuing application) to maintain pendency of the application.

As noted in MPEP 711.03(c):

> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. *See Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 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 the 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.

CONCLUSION

The circumstances of this application do not demonstrate that the delay in filing a proper and timely reply to the final Office action of June 4, 2003 was unavoidable. Accordingly, the application will not be revived under the unavoidable provisions of 37 CFR 1.137(a) and the application remains abandoned.

ALTERNATIVE RELIEF

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,500 petition fee.

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

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

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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www.uspto.gov

Jack P Friedman
Schmeiser Olsen & Watts
3 Lear Jet Lane
Suite 201
Latham NY 12110

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of :
AGNELLO, David Paul et al. :
Application No.: 09/939,895 :
Filing Date: August 27, 2001 :
Docket No.: BU9-98-183-US2 :
For: WET CLEANS FOR COBALT DISILICIDE PROCESSING :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the petition filed on March 31, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed June 04, 2003, which set a shortened statutory period for reply of three (3) months. While a timely reply was filed on July 31, 2003, that reply did not *prima facie* place this application in condition for allowance as indicated by the Advisory Action mailed September 02, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and a Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned at midnight on September 04, 2003.

The petition satisfies the conditions for revival set forth in 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal; (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 04, 2003, is accepted as having been unintentionally delayed.

The Notice of Appeal filed September 07, 2004, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

This application is being referred to Technology Center AU 2811, to await applicants' submission.

Further correspondence with respect to this matter should be addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Brian Hearn
Petitions Examiner
Office of Petitions

#9
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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APR 24 2003

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APR 24 2003

OFFICE OF THE DIRECTOR
TC 3600

Alan MacPherson
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

In re application of
Lane W. Lee et al.
Application No. 09/939,896 : DECISION ON REQUEST
Filed: August 27, 2001 : FOR WITHDRAWAL OF
For: REVOCATION METHOD AND : ATTORNEY
APPARATUS FOR SECURE CONTENT

This is a decision on the request filed on October 30, 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 delay in treating this request is sincerely regretted.

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 changed as per the Notice regarding Change of Power of Attorney mailed January 13, 2003.

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

SNM/tpl: 4/23/03

cc: Skjerven Morrill LLP
25 Metro Drive, Suite 700
San Jose, CA 95110

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Elsa Keller, Legal Assistant
Intellectual Property Department
SIEMENS CORPORATION
186 Wood Avenue South
Iselin NJ 08830

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AUG 15 2008

In re Application of	:	
Kevin O'Rourke	:	
Application No. 09/939,899	:	DECISION ON PETITION
Filed: August 27, 2001	:	
Attorney Docket No. 2001P07802US01	:	

This is a decision on the petition, filed February 20, 2008 and resubmitted May 19, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before January 4, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 4, 2007.

Petitioner asserts that the Notice dated October 4, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in the practitioner' statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. In this regard, although petitioner does state that the Notice was not received and provides a copy of a docket report for the current case where the nonreceived Notice would have been entered had it been received, this alone is not sufficient. The showing required must include a statement from the practitioner describing the docketing system and indicating that the docketing system is sufficiently reliable. *See* MPEP § 711.03(c), I, A. The petition does not describe the docketing system or establish its reliability.

Moreover, a copy of the practitioner's record(s) required to show non-receipt of the Notice should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Notice, a copy of the master docket report showing all of the replies docketed for a date three months from the mail date of the nonreceived Notice must be submitted as documentary proof of nonreceipt of the Notice. If no such master docket exists, practitioner should so state and provide other evidence such as, but not limited, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of Allowance and Fee(s) Due, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the appropriate petition fee.

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

CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Elsa Keller, Legal Assistant
Intellectual Property Department
SIEMENS CORPORATION
186 Wood Avenue South
Iselin NJ 08830

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NOV 18 2008

OFFICE OF PETITIONS

In re Application of :
Kevin O'Rourke :
Application No. 09/939,899 : DECISION ON PETITION
Filed: August 27, 2001 :
Attorney Docket No. 2001P07802US01 :

This is a decision on the renewed petition under 37 CFR 1.181 (no fee), filed September 11, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before January 4, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 4, 2007.

Petitioner asserts that the Notice dated October 4, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993). The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2174 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of October 4, 2007. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 7

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

MAIL

JUN 6 - 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Gary Russell
Application No. 09/939,932
Filed: August 27, 2001
For: SYSTEM FOR HALFTONE SCREEN PRODUCTION

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed April 29, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition does not meet items 4 and 6 listed above. The petition does not fully discuss the search method employed, such as classes and subclasses searched, publications, etc., nor are any of the references fully discusses by pointing out with particularity how the claimed subject matter is patentable over the references. Petitioner recites an Information Disclosure Statement (IDS) mailed April 21, 2003, but there is no such IDS. Perhaps Petitioner is referring to the IDS filed October 19, 2001 (with a Certificate of Mailing of October 15, 2001). If not, Petitioner would also not meet item 5.

Accordingly, the petition is **DENIED**.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. No further petition fee is required.

The application is being forwarded to the group Central Files and will await action in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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MAIL

Paper No. 11

SEP 2 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

In re Application of:
Gary Russell
Application No. 09/939,932
Filed: August 27, 2001
For: SYSTEM FOR HALFTONE SCREEN PRODUCTION

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 06, 2003 under 37 CFR § 1.102(d) to make the application special.

A grantable petition under 37 CFR § 1.102(d) and MPEP § 708.02, section II: Infringement, must be accompanied by the required fee and a statement alleging:

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

The petitioner meets all of the above requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Krista Zele
Special Program Examiner
Technology Center 2600
(703) 305-4701

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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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NOV 2 2 2004

OFFICE OF PETITIONS

In re Application of :

Suzette Iskander :
Application No. 09/939,956 : ON PETITION
Filed: August 27, 2001 :
Attorney Docket No. 30879.205485 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 5, 2003, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provision of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 6, 2003.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on July 6, 2004.

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

This matter is being forwarded to Technology Center AU 1774 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Skjerven, Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

MAILED

NOV 29 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Lane W. Lee et al.
Application No. 09/939,960 : DECISION ON REQUEST
Filed: August 27, 2001 : FOR WITHDRAWAL OF
For: MASTERING PROCESS AND : ATTORNEY
SYSTEM FOR SECURE CONTENT

This is a decision on the request filed on October 31, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

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

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

snm: 11/24/02

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

James E. Parsons
SKJERVEN MORRILL MACPHERSON LLP
25 Metro Drive, Suite 700
San Jose, CA 95110

MAILED

DEC 0 3 2002

Technology Center 2100

In re Application of: Steven B. Volk et al.)
Application No. 09/940,025)
Filed: August 27, 2001) **DECISION ON REQUEST FOR**
For: SYSTEM AND METHOD FOR) **WITHDRAWAL AS ATTORNEY**
IDENTIFYING VENDORS OF)
HIDDEN CONTENT

This is a decision on the Request To Withdraw from Representation filed October 31, 2002.

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

The request filed October 31, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

FM James R. Matthews

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

cc: Steve Volk
Chairman of the Board
DATAPLAY, INC.
2560 55th Street
Boulder, CO 80301-5706

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WASHINGTON, D.C. 2023
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JAN 2 2 2003

Technology Center 2100

Paper No. 7

James R. Matthews
SKJERVEN MORRILL MACPHERSON LLP
25 Metro Drive, Suite 700
San Jose, CA 95110

In re Application of: Russell M. Richman)
Application No. 09/940,025)
Filed: August 27, 2001) **DECISION ON REQUEST FOR**
For: SYSTEM AND METHOD FOR) **WITHDRAWAL AS ATTORNEY**
IDENTIFYING VENDORS OF)
HIDDEN CONTENT

This is a decision on the Request To Withdraw from Representation filed December 24, 2002.

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

The request filed December 24, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Alan MacPherson
MACPHERSON KWOK CHEN & HEID LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

MAILED

DEC 0 3 2002

Technology Center 2100

In re Application of: Timothy R. Feldman, et al.
Application No. 09/940,026
Filed: August 27, 2001
For: HOST CERTIFICATION METHOD AND SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 30, 2002.

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

The request is **GRANTED**.

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

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

cc: Steve Volk
Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

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JAN 17 2003

Technology Center 2100

Paper No. 10

James E. Parsons
SKJERVEN MORRILL LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

In re Application of:)
Feldman, Timothy R. et al.)
Application No. 09/940,026) **DECISION ON REQUEST FOR**
Filed: August 27, 2001) **WITHDRAWAL AS ATTORNEY**
For: HOST CERTIFICATION METHOD)
AND SYSTEM

This is a decision on the Request To Withdraw from Representation filed December 24, 2002.

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

The request filed December 24, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Alan MacPherson
MACPHERSON KWOK CHEN & HEID LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

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JAN 1 0 2003

Technology Center 2100

Paper No. 7

Skjerven Morrill MacPherson LLLP
25 Metro Drive
Suite 700
San Jose, CA 95110

In re Application of: Timothy R. Feldman, et al.
Application No. 09/940,035
Filed: August 27, 2001
For: UNLOCKING METHOD AND SYSTEM FOR DATA ON MEDIA

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 24, 2002.

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

The request is **GRANTED**.

All future communications from the Office will be directed to the 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: Alan MacPherson
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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JIMMY L. FUNKE
DELPHI TECHNOLOGIES, INC.
LEGAL STAFF MAIL CODE A-107
P.O.BOX 9005
KOKOMO IN 46904-9005

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FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of	:	
John C. Christenson	:	
Application No. 09/940,080	:	ON PETITION
Filed: 28 August, 2001	:	
Attorney Docket No. DP-301187	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 18 December, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 25 June, 2003, for failure to timely respond to the non-final Office action mailed on 24 March, 2003, which set a three (3) month shortened statutory

---

[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)).

period for reply. Notice of Abandonment was mailed on 16 January, 2004.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

#8
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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MAR 17 2003

Steve Volk, Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

MAILED

MAR 17 2003

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Timothy R. Feldman
Application No. 09/940,083 : DECISION ON REQUEST
Filed: August 27, 2001 : FOR WITHDRAWAL OF
For: SECURE ACCESS METHOD : ATTORNEY
AND SYSTEM

This is a decision on the request filed on December 24, 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 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 of November 12, 2002.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl : 3/7/03

cc: Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUN 25 2007

OFFICE OF PETITIONS

In re Patent No. 7,076,483	:	
Preda et al.	:	LETTER REGARDING
Issue Date: July 11, 2006	:	PATENT TERM ADJUSTMENT
Application No. 09/940,132	:	and
Filed: August 27, 2001	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 13463-002001	:	CERTIFICATE OF CORRECTION
	:	

This is in response to the LETTER REGARDING PATENT TERM ADJUSTMENT filed August 14, 2006. Patentees disclose that the patent term adjustment of 861 days indicated on the Issue Notification (and on the face of the patent) appears to be longer than appropriate.

The request for review of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of EIGHT HUNDRED FIFTEEN (815) days.

On July 11, 2006, the above-identified application matured into U.S. Patent No. 7,076,483, with a revised patent term adjustment of 861 days. Patentees state no basis for their disclosure.

Nonetheless, a review of the record confirms that there was no Office delay in issuing the patent within the meaning of § 1.703(a)(6). The adjustment pursuant to 37 CFR 1.702(a)(4) was not warranted. The issue fee payment was received on March 16, 2006 (not January 26, 2006) and the patent issued within 4 months on July 11, 2006. Accordingly, the period of adjustment of 46 days has been removed.

In view thereof, the patent should have issued with a revised patent term adjustment of EIGHT HUNDRED FIFTEEN (815) days.

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

The Certificates of Correction Branch has been advised of this decision. The Certificates of Correction Branch is thereby forwarded this application 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 **EIGHT HUNDRED FIFTEEN (815)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,076,483 B2

DATED : July 11, 2006

INVENTOR(S) : Preda et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (861) days

Delete the phrase "by 861" and insert – by 815 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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AKERMAN SENTERFITT
P O BOX 3188
WEST PALM BEACH, FL 33402-3188

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JUN 05 2006

OFFICE OF PETITIONS

In re Application of :
Morgan Rey Benson et al : DECISION ON PETITION
Application No. 09/940,164 : UNDER 37 CFR 1.137(b)
Filed: August 27, 2001 :
Attorney Docket No. DP-306072 :

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

The petition is **granted**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 22, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed April 22, 2005. A Notice of Abandonment was mailed on September 21, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $1,400 issue fee and $300 publication fee, the petition fee of $1,500, and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

The revocation and power of attorney received April 18, 2006 is not acceptable since it fails to comply with the provisions of 37 CFR 3.73(b). Although the box is checked to indicate that a statement under 37 CFR 3.73(b) is enclosed, no such certification was found. Accordingly, in view of the nonacceptance of the revocation and power of attorney filed on April 18, 2006, a courtesy copy of this decision is being mailed to the below-listed address. However, all future correspondence will continue to be directed to the above-noted address of record until such time as an acceptable power of attorney has been filed.

There is no indication that petitioner has submitted Part B - Fee(s) Transmittal form PTOL-85. Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, and **if this can be done without disrupting the printing process**, the attached Fee(s) Transmittal form should be completed and returned to Mail Stop Issue Fee, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450, or Fax to (703) 746-4000, within **ONE MONTH** from the mail date of this decision.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT TO PETITIONER: Part B - Fee(s) Transmittal Form

cc:

Howard & Howard Attorneys PC
The Pinehurst Office Center, Suite #101
39400 Woodward Avenue
Bloomfield Hills, MI 48304-5151

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

30448 7590 04/22/2005

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (703) 746-4000, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,164	08/27/2001	Morgan Rey Benson	DP-306072	4379

TITLE OF INVENTION: BATTERY CONSTRUCTED WITH EXTRACTED BICELLS STACKED ON SHUTTLED PALLET

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	07/22/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
WILLS, MONIQUE M	1746	429-161000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

OIPE IAP78 JUL 07 2006 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Morgan Ray Benson et al.
Serial No. : 09/940,164
Filed : August 27, 2001
Atty. No : DP-306072
Title : BATTERY CONSTRUCTED WITH EXTRACTED BICELLS STACKED ON SHUTTLED PALLET
Art Unit : 1746
Examiner : Monique M. Wills

CERTIFICATE OF FACSIMILE

I hereby certify that the attached correspondence is being transmitted by facsimile to the United States Patent & Trademark Office to facsimile telephone number (571) 273-2885 on July 7, 2006.

Anne L. Kubit

Anne L. Kubit

RESPONSE TO DECISION ON PETITION

Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the Decision on Petition dated June 5, 2006 (copy provided herewith), the following completed Part B – Fee (s) Transmittal form PTOL-85 is being submitted to complete all noted filing requirements. As the Decision on Petition stated the payment of the Issue Fee has been received and no further fees should therefore be required for the submission of the completed PTOL-85 Form. However should the Commissioner deem that a fee is required, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account 08-2789.

Respectfully submitted

HOWARD & HOWARD ATTORNEYS, P.C.

July 7, 2006
Date

Michael G. Shariff, Registration No. 58,223
The Pinehurst Office Center, Suite #101
39400 Woodward Avenue
Bloomfield Hills, Michigan 48304
(248) 723-0400

OIPE IAP78 JUL 07 2006 PATENT & TRADEMARK OFFICE

Howard & Howard

law for business

FACSIMILE TRANSMITTAL SHEET

This communication is confidential and intended only for the addressee. Any distribution or duplication of this communication is prohibited. If this facsimile was not intended for you, please telephone us immediately so that we can arrange for its return at our expense.

TO:	FROM:
United States Patent and Trademark Office	Anne L. Kubit For Michael G. Shariff
COMPANY:	DATE: July 7, 2006
FAX NUMBER: (571) 273-2885	TOTAL NO. OF PAGES INCLUDING COVER: 5
PHONE NUMBER:	SENDER'S TELEPHONE NUMBER: (248) 723-0437
SERIAL NO. 09/940,164	SENDER'S FAX NUMBER:: (248) 645-1568
RE: Response to Decision on Petition	

X FOR REVIEW & ACTION

NOTES/COMMENTS:

HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE 101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MICHIGAN 48304-5151

PAGE 1/5 * RCVD AT 7/7/2006 4:47:01 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/9 * DNIS:2732885 * CSID:2486451568 * DURATION (mm-ss):01-52

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JUL 07 2006
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UNITED STATES PATENT AND TRADEMARK OFFICE

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AKERMAN SENTERFITT
P O BOX 3188
WEST PALM BEACH, FL 33402-3188

COPY MAILED
JUN 05 2006
OFFICE OF PETITIONS

In re Application of :
Morgan Rey Benson et al : DECISION ON PETITION
Application No. 09/940,164 : UNDER 37 CFR 1.137(b)
Filed: August 27, 2001 :
Attorney Docket No. DP-306072 :

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

The petition is granted.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 22, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed April 22, 2005. A Notice of Abandonment was mailed on September 21, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $1,400 issue fee and $300 publication fee, the petition fee of $1,500, and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

The revocation and power of attorney received April 18, 2006 is not acceptable since it fails to comply with the provisions of 37 CFR 3.73(b). Although the box is checked to indicate that a statement under 37 CFR 3.73(b) is enclosed, no such certification was found. Accordingly, in view of the nonacceptance of the revocation and power of attorney filed on April 18, 2006, a courtesy copy of this decision is being mailed to the below-listed address. However, all future correspondence will continue to be directed to the above-noted address of record until such time as an acceptable power of attorney has been filed.

There is no indication that petitioner has submitted Part B - Fee(s) Transmittal form PTOL-85. Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, and **if this can be done without disrupting the printing process**, the attached Fee(s) Transmittal form should be completed and returned to Mail Stop Issue Fee, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450, or Fax to (703) 746-4000, within **ONE MONTH** from the mail date of this decision.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT TO PETITIONER: Part B - Fee(s) Transmittal Form

cc:

Howard & Howard Attorneys PC
The Pinehurst Office Center, Suite #101
39400 Woodward Avenue
Bloomfield Hills, MI 48304-5151

#8
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 13 2003

MAILED

MAR 13 2003

OFFICE OF THE DIRECTOR
TC 3600

Steve Volk, Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

In re application of
Lane W. Lee et al.
Application No. 09/940,174 : DECISION ON REQUEST
Filed: August 27, 2001 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD FOR : ATTORNEY
DETECTING UNAUTHORIZED
COPYING OF ENCRYPTED DATE

This is a decision on the request filed on December 24, 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 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 of December 9, 2002 (see attachment).

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl : 3/7/03

cc: Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

Attachment: Copy of approval of request to withdraw as attorney of December 9, 2002.

FTS
(nLW 11-21-02)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPROVED
JOHN J. LOVE
DIRECTOR TC 3600 nLW 12-9-02

Applicant:	Feldman, Timothy R. et al.		
Assignee:	DataPlay, Inc.		
Title:	System And Method For Detecting Unauthorized Copying Of Encrypted Data		
Serial No.:	09/940,174	Filing Date:	August 27, 2001
Examiner:	Unknown	Group Art Unit:	Unknown ~~3600~~ 3621
Docket No.:	M-12038 US		

San Jose, California
October 28, 2002

COMMISSIONER FOR PATENTS
Washington, D. C. 20231

RECEIVED
TECHNOLOGY CENTER 3600
02 OCT 30 AM 10:31

PETITION TO WITHDRAW AND CHANGE OF ADDRESS

Dear Sir:

This paper is a petition to withdraw from the Attorneys of Record in the above-cited application under 37 C.F.R. §10.40(c) (1) (vi).

The attorneys below of Skjerven Morrill LLP at 25 Metro Drive, Suite 700, San Jose, CA 95110 are of record in the above-cited application:

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NOV 01 2002
GROUP 3600

Customer Number 27869

Customer Number 24251

By this paper, all attorneys and agents of record, including all attorneys and agents associated with Customer Numbers 24251 and 27869 as listed on the attached sheet and all attorneys and agents of Skjerven Morrill LLP who have appeared were listed on any power of attorney forum request to withdraw. The attorney of record signing below is signing on behalf of each and every such attorney and agent.

LAW OFFICES OF
SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE, CA 95110
(408) 453-9200
FAX (408) 453-7979

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

FILE

J. M. (Mark) Gilbreth
GILBRETH & ASSOCIATES, P.C.
P.O. Box 2428
Bellaire TX 77402-2428

CASE SUP NO. 13921

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JUL 3 1 2002

OFFICE OF PETITIONS

In re Application of
Zuo et al.
Application No. 09/940,180
Filed: August 27, 2001
Attorney Docket No. 27300/03

DECISION ON PETITION

This is a decision on the Petition to Correct Filing Date, filed April 9, 2002, requesting the above-identified application be accorded the filing date of August 27, 2001.

Application papers in the above-identified application were filed on August 27, 2001. On October 9, 2001, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, indicating August 27, 2001, as the filing date, but requiring, inter alia, Figures 1A and 4C described in the specification. The Notice set a two-month period for reply, with extensions of time available under 37 CFR §1.136(a).

Petitioner subsequently, on December 10, 2001, filed a response to the Notice, including an Amendment of the above-identified application.

In response, on December 28, 2001, the Office of Initial Patent Examination mailed Petitioner an Updated Filing Receipt for the above-identified application noting that the application was now complete; however, the filing date for the above application was changed to December 28, 2001[1].

Petitioner files the instant petition requesting correction of the application filing date to August 27, 2001.

The Manual of Patent Examining Procedure ("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.

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the

---

[1] A copy of the Updated Filing Receipt was not included with the instant petition, nor was a copy found in the application file. However, the Patent Office Location and Monitoring System ("PALM") records reveal that the Updated Filing Receipt was mailed on December 28, 2001, and PALM records indicate the filing date accorded the instant application as being December 28, 2001.

USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

In this instance, Petitioner elected option (3).

A review of the file reveals that the application as filed on August 27, 2001, was a complete application under 37 CFR 1.53(b) such that the application was correctly accorded the August 27, 2001 filing date.

Accordingly, the petition is **GRANTED**.

A refund of the petition fee has been scheduled.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to August 27, 2001, with the drawings filed on that date, and for the mailing of a corrected filing receipt.

Thereafter, the file will be returned to Technology Center AU 1653 to await the filing of the Preliminary Amendment, and for examination in due course.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Christina Tartare Donnell for

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

Conferee: Christina Donnell, Esq.

Mol Percent Report

Sample ID: 01402018 (initiated 1/15/99 7:03am) BASELINE CORRECTED

Turntable Position:	6 C	Sampling Interval:	1.0 sec
Data Start :	3.00 min	Samples In Run :	72
Data Duration :	16.00 min	Operator ID :	
Peak Ht Threshold :	3000 uAU	Int. Std. Amt :	250 pmol
Calibration File :	16JANCAL	(initiated 1/15/99 9:44am)	
Reference Time :	0.00 min	(No ISTD Peak Specified)	
Reference Offset 1:	-0.02 min		
Reference Offset 2:	0.00 min		

Integration Interval: 0.0 to 16.0 min

PEAK ID	RET. TIME min	PMOL BY HEIGHT	PMOL correc. INT STD	MOL %
ASX	2.30	562.99	0.00	29.02
GLX	2.70	1377.05	0.00	70.98

TOTAL PMOLS RECOVERED 1940.04

Minimum Peak Threshold: 3000 uAU (53 peaks below threshold)
(8 peaks found)
(2 peaks matched)

~~Figure 1B.~~ FIGURE 1A

Amino acid analysis of the polypeptide

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

J. M. (Mark) Gilbreth
GILBRETH & ASSOCIATES, P.C.
P.O. Box 2428
Bellaire TX 77402-2428

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JUL 3 1 2002

OFFICE OF PETITIONS

In re Application of
Zuo et al.
Application No. 09/940,180
Filed: August 27, 2001
Attorney Docket No. 27300/03

DECISION ON PETITION

This is a decision on the Petition to Correct Filing Date, filed April 9, 2002, requesting the above-identified application be accorded the filing date of August 27, 2001.

Application papers in the above-identified application were filed on August 27, 2001. On October 9, 2001, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, indicating August 27, 2001, as the filing date, but requiring, inter alia, Figures 1A and 4C described in the specification. The Notice set a two-month period for reply, with extensions of time available under 37 CFR §1.136(a).

Petitioner subsequently, on December 10, 2001, filed a response to the Notice, including an Amendment of the above-identified application.

In response, on December 28, 2001, the Office of Initial Patent Examination mailed Petitioner an Updated Filing Receipt for the above-identified application noting that the application was now complete; however, the filing date for the above application was changed to December 28, 2001[1].

Petitioner files the instant petition requesting correction of the application filing date to August 27, 2001.

The Manual of Patent Examining Procedure ("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.

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the

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[1] A copy of the Updated Filing Receipt was not included with the instant petition, nor was a copy found in the application file. However, the Patent Office Location and Monitoring System ("PALM") records reveal that the Updated Filing Receipt was mailed on December 28, 2001, and PALM records indicate the filing date accorded the instant application as being December 28, 2001.

USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

In this instance, Petitioner elected option (3).

A review of the file reveals that the application as filed on August 27, 2001, was a complete application under 37 CFR 1.53(b) such that the application was correctly accorded the August 27, 2001 filing date.

Accordingly, the petition is **GRANTED**.

A refund of the petition fee has been scheduled.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to August 27, 2001, with the drawings filed on that date, and for the mailing of a corrected filing receipt.

Thereafter, the file will be returned to Technology Center AU 1653 to await the filing of the Preliminary Amendment, and for examination in due course.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Christina Tartera Donnell for

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

Conferee: Christina Donnell, Esq.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IRA J. SCHAEFER, ESQ.
HOGAN & HARTSON LLP
875 THIRD AVENUE
NEW YORK, NY 10022

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NOV 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Jerome Swartz et al	:	
Application No. 09/940,182	:	DECISION ON PETITION
Filed: August 27, 2001	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 591A	:	

This is a decision on the petition, filed November 6, 2006 and supplement on November 8, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application stated to have been filed by Express Mail on November 6, 2006.

The petition complies with the requirements of 37 CFR 1.313(c)(3). Accordingly, the application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\NOV10\940182.wpd

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 20

EDWARD L. WHITE, P.C.
SUITE 440
50 PENN PLACE
OKLAHOMA CITY, OK 73118

COPY MAILED
MAY 0 6 2004
OFFICE OF PETITIONS

In re Application of :
Winchester, Richard M. :
Application No. 09/940,208 : ON PETITION
Filed: August 27, 2001 :
Title: Construction Layout Stripping :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 26, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed June 3, 2003. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on November 4, 2003. A Notice of Abandonment was mailed on December 31, 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

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

SEP 15 2005

EDWARD FEDEROWICZ
98 WEST 32ND STREET
BAYONNE NJ 07002

In re Application of :
EDWARD FEDEROWICZ :
Application No. 09/940,211 :
Filed: August 28, 2001 :
For: SHIFT" (SECURE HOME INTERACTIVE :
FINANCIAL TRANSACTOR) INTERNET :
CREDIT CARD SECURITY SYSTEM :
AND NON-INTERNET ELECTRONIC :
BANKING SYSTEM :

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's letter received in the United States Patent and Trademark Office (USPTO) on July 28, 2005. This letter is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. There is no fee for this petition.

The petition is **DENIED**.

A review of the file record indicates this application became abandoned on May 17, 2005 for failure to properly respond to the Office Action mailed November 17, 2004, which set forth a three-month, extendable period in which to respond.

Applicant requests withdrawal of holding of abandonment as he contends that a response was timely filed December 14, 2004. In the instant petition as well as in a letter received April 04, 2005, Applicant states that a five page response letter was mailed to the USPTO on December 14, 2004, Attention: Examiner Christina Sherr. Applicant provides a copy of said response as Exhibit "A". Applicant states that approximately three months later he called Examiner Sherr, at which time she told him that she had received the response but the Patent Office had not received the documents and therefore they were not considered officially filed. Applicant states he requested Examiner Sherr to have the Patent Office treat the response she said she had received as an official response and notes the December 14, 2004 response was mailed to the same address as his August 30, 2004 response (attached as Exhibit "B").

The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. There is no record of a December 14, 2004 response in the file and Applicant has failed to provide any acceptable evidence of this response. Acceptable showings include: a date stamped post card receipt, a proper certificate of mail or transmission under 37 CFR 1.8 (MPEP 512), a proper express mail under 37 CFR 1.10 (MPEP 513), and a proper facsimile

transmission of a CPA under 37 CFR 1.6 (MPEP 502.01). While the April 04, 2005 letter included a copy of the alleged December 14, 2004 response, it too failed to include acceptable evidence of a December 14, 2004 mail date. Further, no extensions of time were requested at this time and there is no authorization found in the file to charge for extensions of time such that the April 04, 2005 response could be deemed timely filed.

A copy of Guidelines on Submissions for Pro Se Applicants is attached to assist Applicant with any future submissions.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By Mail: Deputy Commissioner of Patent Examination Policy
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 should be directed to the Office of Petitions Staff at (571) 272-3282.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

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

SNM/rjc 07/22/05

ATTACHMENT: Pro Se Correspondence Guidelines.

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on (date).
>
> (Typed or printed name of the person signing this certificate)
>
> (signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

> I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)___-____on (date).
>
> (Typed or printed name of the person signing this certificate)
>
> (signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted.
For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.
In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally** signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

NOTICE TO APPLICANT: In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.

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EDWARD FEDEROWICZ
98 WEST 32ND STREET
BAYONNE, NJ 07002

COPY MAILED

FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Federowicz	:	
Application No. 09/940,211	:	ON PETITION
Filed: August 28, 2001	:	

This is a decision on the petition under 37 CFR 1.181, filed November 10, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed on November 17, 2004. The Office action set an extendable three month period for reply.

Petitioner spoke with the examiner on December 10, 2004.

Petitioner mailed a reply to the Office on December 18, 2004. The exact date the reply was received by the Office is unknown.

The examiner verified the reply was received during a telephone conversation with the Office of Petitions.

During the conversion of the application file from a paper file to electronic file, the reply was misplaced and not scanned.

Since a reply was in fact timely filed, the application is not abandoned.

Technology Center Art Unit 3621will be informed of the instant decision and the examiner will consider the copy of the reply petitioner submitted on April 4, 2005, in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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APR 20 2004

In re Application of
Mario Bogdan *et al*
Application No. 09/940,261
Filed: August 27, 2001
Attorney Docket No. 1014-011US01

: DECISION ON PETITION

This is a decision on the petition filed on January 27, 2004 by which petitioners request supervisory review of, and withdrawal of, the examiner's restriction requirement as promulgated on June 30, 2003 and as made final on November 17, 2003. The petition is considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is granted.

A review of the application and of the claims shows that the claimed apparatus is a hand operated tool for use in assisting in the placement of device such as a printed circuit board into various electrical devices and computing systems such as a network router. As claimed, the invention is recited as a system that appears to include a housing (that might, for example, be the housing of a network router) that can receive a removable component, and a drive shaft having a groove that can engage the pin, the drive shaft being coupled to the component. Additional apparatus claims are limited to a device for inserting and extracting a removable component. Method claims are presented that recite the use of the tool.

The examiner restricted between the apparatus claims and the method claims, opining that the process claimed could be practiced by hand. The problem is that insofar as the claims are limited to the apparatus *per se*, and not to a system including the tool and the housing worked on by the tool, the tool recited is a hand tool (a handle is claimed). Obviously, a method that includes the step of "rotating a first handle" is a method performed by a hand tool. It is not clear from the examiner's explanation how the examiner proposes that the claimed method will be performed without the claimed hand tool.

Further, the examiner required that petitioner's further elect between the species of Figure 1 and the species of Figure 4 in the event that petitioners elected the apparatus claims. However, as pointed out by petitioners, Figures 1 and 4 do not show different species. Instead, the former shows schematically shows the use of the tool with a housing while the latter shows the use of two tools with a housing. Neither Figure illustrates a different tool. At best, Figures 1 and 4 might illustrate the subcombination of the tool and the combination of the tool and the housing, but they do not show different species. The examiner should note that the mere statement that "the Examiner gave species, not combination-subcombination restriction" does not convert the matter into a species situation where there aren't plural species disclosed **and claimed**.

The restriction requirement as promulgated and made final is not in accordance with proper Office procedure. Accordingly, it is hereby vacated. The application will be forwarded to the Supervisory Patent Examiner of Art Unit 3729 who will have the examiner promulgate an action not inconsistent with this Decision.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Shumaker & Sieffert, P.A.
8425 Seasons Parkway
Suite 105
St. Paul, MN 55125

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

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

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JUN 17 2003

OFFICE OF PETITIONS

In re Application of Paul A. Smethers Application No. 09/940,265 Filed: August 27, 2001 Attorney Docket No.: 3399P061 Title: GRAPHICAL USER INTERFACE FEATURES OF A BROWSER IN A HAND-HELD WIRELESS COMMUNICATION DEVICE	: : : : : : : : :	DECISION DISMISSING PETITION UNDER 37 C.F.R. §1.137(F) AS MOOT

This is a decision on the petition filed on May 15, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign country or an international application on August 27, 2002.

It is noted that the Nonpublication request was filed with the original application papers on August 27, 2001. On August 5, 2002, a Request to Rescind the Nonpublication Request was filed with the Office. Therefore, the Nonpublication Request was rescinded prior to the foreign filing. If an applicant makes a nonpublication request and then rescinds the nonpublication

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made[2].

For the reason set forth above, the petition under 37 C.F.R. §1.137(f) is **DISMISSED AS MOOT**.

As such, no petition fee is necessary. The petition fee has been refunded to petitioner's Deposit Account, as authorized in the petition.

After the mailing of this decision, the application file will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

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

2 Rescission generally has the effect of voiding, repealing, or annulling a previous action. See Black's Law Dictionary 1308 (7th ed. 1999) (second definition: to make void, to repeal, or annul). Thus, if 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 under 35 U.S.C. § 122(b)(2)(B)(i) will be treated as annulled and the application will be treated as if the nonpublication request had never been made. See http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 0 2 2009

OFFICE OF PETITIONS

In re Patent of Huffman et al. :
Patent No. 7,505,936 :
Issue Date: March 17, 2009 :
Application No. 09/940,276 :
Filing Date: August 27, 2001 :
Attorney Docket No. 12587-0010001 :

DECISION ON APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d)" filed May 12, 2009. Patentees request the determination of patent term adjustment indicated on the patent be corrected from one thousand six hundred nineteen (1,619) days to two thousand one hundred sixty-nine (2,169) days.

The request for reconsideration of the patent term adjustment indicated on 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 one thousand four hundred and ninety-nine (1,499) days.

Any response to this decision must be submitted within the longer of ONE (1) MONTH or THIRTY (30) DAYS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. Any response should include a cover letter entitled "Renewed Request under 37 CFR 1.705(d)."

The application was filed August 27, 2001. The application matured into United States Patent No. 7,505,936 with a revised patent term adjustment of 1,619 days on March 17, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent.

Patentees assert the correct patent term adjustment is 2,169 days which is the sum of 1,612 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 1,663 days of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") reduced by 942 days of overlap and 164 days of Applicant Delay.

The amount of A Delay (1,612 days) and the amount of B Delay (1,663 days) are not in dispute. The amount of overlap and the amount of Applicant Delay are in dispute.

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of A Delay and B Delay to the extent such periods of delay are not overlapping. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

> To the extent that time periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

Patentees assert the period of overlap is 942 days. The Office contends the period of overlap is 1,612 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, 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.[1]

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, August 27, 2001, to the date of issuance of the patent, March 17, 2009.[2]

The period of delay of 1,663 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1,430 days for Office delay pursuant to 37 C.F.R. § 1.702(a)(1) and with the adjustment of 182 days for Office delay pursuant to 37 C.F.R. § 1.702(a)(4).

---

[1] *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

[2] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(i)-(iii).

Since the 1,663 days of B delay overlap with a total of 1,612 days (1,430 days + 182 days) of A Delay, the Office acted properly when the Office increased the patent term by 51 days (1,663 days reduced by 1,612 days) for B Delay when issuing the patent.

The Office mailed a Notice of Allowance on March 5, 2008. On March 17, 2008, patentees filed a "Request for Initialed Forms PTO 1449" ("Request") on March 17, 2008, which stated,

> Applicants have not received initialed copies of the Forms PTO 1449 that accompanied the Information Disclosures dated November 27, 2002; January 30, 2003; March 26, 2003; May 17, 2004; July 13, 2005; December 12, 2005; March 9, 2006; and August 18, 2006. A copy of each of these forms is enclosed for the Examiner's convenience.

The file contains a copy of the initialled 1449 forms. The examiner's signature on the forms is dated April 21, 2008. The record appears to indicate a copy of the initialled forms *may* have been mailed to patentees on April 29, 2008.

When calculating the patent term adjustment that appeared on the patent, the Office did not enter any reduction of patent term adjustment for the Request filed March 17, 2008.

In good faith and candor, patentees assert the amount of Applicant Delay should have been increased by 120 days due to the filing of the paper on March 17, 2008.

37 CFR 1.704(c)(10) states,

> [Upon] [s]ubmission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed ... the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months.

The Office agrees with patentees that a 120-day reduction in patent term adjustment is appropriate as a result of the March 17, 2008 Request. Specifically, the March 17, 2008 paper should have resulted in a reduction of 120 days in patent term adjustment pursuant to 37 C.F.R. § 1.704(c)(10).

The Office has entered a reduction of 120 days in patent term adjustment.

Conclusion

The Office acted properly when it increased the patent tern adjustment 51 days for B Delay.

The Office has entered a reduction of 120 days in patent term adjustment pursuant to 37 C.F.R. § 1.704(c)(10).

The patent term adjustment, as revised by the instant decision, is 1,499 days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is 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 one thousand four hundred ninety-nine (**1,499**) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,505,936 B2	
ISSUE DATE	:	March 17, 2009	**DRAFT**
INVENTOR(S)	:	Huffman 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 1619 days.

Delete the phrase "by 1619 days" and insert - by 1499 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 18, 2006

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/940283 Patent No.: 7,065,407 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: All corrections are clerical in nature and do not change the scope of the claims or materially alter the written description - KDM

Carl R. Layno — **SPE**

3766 — **Art Unit**

Mullen, Kristen

From: Layno, Carl
Sent: Tuesday, March 04, 2008 12:53 PM
To: Mullen, Kristen
Subject: RE: Pat. 7065407; 09/940283 C of C

Kristen,

If you would be so kind to take care of this. I would be grateful. Yes. Leave the paperwork in my inbox. Thanks much.

-Carl

From: Mullen, Kristen
Sent: Tuesday, March 04, 2008 11:25 AM
To: Layno, Carl
Subject: FW: Pat. 7065407; 09/940283 C of C

Carl,
Do you want me to take care of this and leave you the paperwork to in your inbox? Or do you want to take care of this? This may have slipped through the cracks since I was been removed from AU 3766 in PALM and e-dan/Madras so quickly back in Oct.

Kristen

From: Evans, Elisha
Sent: Friday, February 29, 2008 7:36 PM
To: Mullen, Kristen
Subject: Pat. 7065407; 09/940283

Please respond to Request for correction ASAP sent 8/18/06.

The Application file has been sent to examiner's Edan /Madras Mailbox. The request for correction is under (COCIN). PTOL-306 (which is under IMIS) has been forwarded for scanning.

Once decision has been made on the PTOL-306 (IMIS) and forwarded to scanning or delivered by interoffice mail, a return message in Edan/Madras with comment stating "Response has been forwarded for scanning" and/or "Response forwarded in interoffice mail" is very much welcomed and appreciated.

If you have already responded to the Request for Correction and are receiving this email again, it is possible the response was misdirected. Please forward your response to me again.

PUBS CofC
Elisha Evans
ST9A22 Location 7580
703.308.9390 ext. 110

Thank you for your attention to this matter.

Elisha M. Evans-Lyles
C of C
(703) 308-9390 ext. 110

OIPE
JUL 17 2006
PATENT & TRADEMARK OFFICE

FYI

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Gust H. Bardy et al.	Confirmation No. 8060
Patent No.:	7,065,407	Issued: June 20, 2006
Serial No.:	09/940,283	Filed: August 27, 2001
Docket No.:	1201.1105101	Customer No.: 21691
For:	DUCKBILL-SHAPED IMPLANTABLE CARDIOVERTER-DEFIBRILLATOR CANISTER AND METHOD OF USE	

Commissioner for Patents
ATTN: Decision and Certificate of Correction
Branch of the Patent Issue Division
PO Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANT MISTAKE AND FOR PTO MISTAKE

CERTIFICATE UNDER 37 C.F.R. 1.8: 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: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on this 13th day of July 2006.

By David M. Crompton
David M. Crompton

Sir:

Errors of Applicants' mistake and errors of PTO's mistake appear in this patent of a clerical nature, as more fully described below. Applicants' errors occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. A certificate of correction is requested.

Attached in duplicate is Form PTO/SB/44 with at least one copy being suitable for printing.

07/18/2006 TBESHAH2 00000051 7065407
01 FC:1811 100.00 OP

The exact place where Applicants' errors are shown in the application file is:

Originally filed specification at page 71, lines 17, 19 and 21, and page 72, line 12

The exact page and line number where the PTO errors are shown correctly in the application file

JUL 21 2006

are:

Originally filed application at page 21, line 7
Originally filed application at page 28, lines 10 and 17
Originally filed application at page 58, line 10
Amendment filed November 30, 2005 at page 18, line 7 of claim 144
Amendment filed November 30, 2005 at page 2, line 1 of each of claims 2-5
Amendment filed November 30, 2005 at page 3, line 1 of each of claims 6-13
Amendment filed November 30, 2005 at page 4, line 1 of each of claims 15-21 and 23
Amendment filed November 30, 2005 at page 5, line 1 of each of claims 24, 26, 27 and 31
Amendment filed November 30, 2005 at page 6, line 1 of each of claims 38-46

Pursuant to CFR § 1.20(a), the fee of $100 is enclosed.

Please send the Certificate to Customer No. 21691.

Respectfully submitted,

Gust H. Bardy et al.

By their Attorney,

Dated: 7/13/06

David M. Crompton, Reg. No. 36,772
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, MN 55403-2420
Telephone: (612) 677-9050
Facsimile: (612) 359-9349

JUL 21 2006

PTO/SB/44 (04-05)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,065,407

APPLICATION NO.: 09/940,283

ISSUE DATE : June 20, 2006

INVENTOR(S) : Gust H. Bardy et al.

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:

Column 7
Line 61, delete "cardioversion/defribillation" and insert therefor: – cardioversion/defibrillation –.

Column 10
Line 25, delete "LCD" and insert therefor: – ICD –.
Line 32, delete "LCD" and insert therefor: – ICD –.

Column 20
Line 33, delete "to".

Column 24
Line 66, delete "anteriorily" and insert therefor: – anteriorly –.
Line 67, delete "posteriority" and insert therefor: – posteriorly –.

Column 25
Line 2, delete "anteriorily" and insert therefor: – anteriorly –.
Line 3, delete "posteriority" and insert therefor: – posteriorly –.
Line 17, delete "posteriority" and insert therefor: – posteriorly –.

Column 32
Line 58, delete "singe" and insert therefor: – single –.

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

Crompton, Seager & Tufte, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, MN 55403-2420

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.

JUL 21 2006

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,065,407

APPLICATION NO.: 09/940,283

ISSUE DATE : June 20, 2006

INVENTOR(S) : Gust H. Bardy et al.

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:

Column 36
Line 5, delete "claim 1" and insert therefor: – claim 90 –.
Line 8, delete "claim 1" and insert therefor: – claim 90 –.
Line 11, delete "claim 1" and insert therefor: – claim 90 –.
Line 14, delete "claim 1" and insert therefor: – claim 90 –.
Line 18, delete "claim 1" and insert therefor: – claim 90 –.
Line 22, delete "claim 1" and insert therefor: – claim 90 –.
Line 26, delete "claim 1" and insert therefor: – claim 90 –.
Line 30, delete "claim 1" and insert therefor: – claim 90 –.
Line 34, delete "claim 1" and insert therefor: – claim 90 –.
Line 38, delete "claim 1" and insert therefor: – claim 90 –.
Line 42, delete "claim 1" and insert therefor: – claim 90 –.
Line 46, delete "claim 1" and insert therefor: – claim 90 –.
Line 50, delete "claim 1" and insert therefor: – claim 90 –.
Line 53, delete "claim 1" and insert therefor: – claim 90 –.
Line 56, delete "claim 1" and insert therefor: – claim 90 –.
Line 59, delete "claim 1" and insert therefor: – claim 90 –.
Line 62, delete "claim 1" and insert therefor: – claim 90 –.
Line 64, delete "claim 1" and insert therefor: – claim 90 –.
Line 66, delete "claim 1" and insert therefor: – claim 90 –.

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

Crompton, Seager & Tufte, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, MN 55403-2420

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,065,407

APPLICATION NO.: 09/940,283

ISSUE DATE : June 20, 2006

INVENTOR(S) : Gust H. Bardy et al.

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:

Column 37
Line 7, delete "claim 1" and insert therefor: – claim 90 –.
Line 10, delete "claim 1" and insert therefor: – claim 90 –.
Line 13, delete "claim 1" and insert therefor: – claim 90 –.
Line 16, delete "claim 1" and insert therefor: – claim 90 –.
Line 28, delete "claim 1" and insert therefor: – claim 90 –.

Column 38
Line 14, delete "claim 1" and insert therefor: – claim 90 –.
Line 16, delete "claim 1" and insert therefor: – claim 90 –.
Line 19, delete "claim 1" and insert therefor: – claim 90 –.
Line 21, delete "claim 1" and insert therefor: – claim 90 –.
Line 23, delete "claim 1" and insert therefor: – claim 90 –.
Line 25, delete "claim 1" and insert therefor: – claim 90 –.
Line 28, delete "claim 1" and insert therefor: – claim 90 –.
Line 31, delete "claim 1" and insert therefor: – claim 90 –.
Line 33, delete "claim 1" and insert therefor: – claim 90 –.

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

Crompton, Seager & Tufte, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, MN 55403-2420

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

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

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COATS & BENNETT, PLLC
P O BOX 5
RALEIGH NC 27602

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of
Vieri Vanghi
Application No. 09/940,293
Filed: August 27, 2001
Attorney Docket No. 4740-009

: DECISION ON APPLICATION
:FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 21, 2006. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from five hundred ninety-three (593) days to six hundred eighty (680)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 SIX HUNDRED EIGHTY (680) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 8, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 593 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 87 days of PTA for applicant delay in filing an Information Disclosure Statement (IDS) on November 18, 2004. Applicants state that the IDS was filed responsive to a foreign search report mailed by a foreign patent office on November 15, 2004.

On August 27, 2004 applicants filed a response to the non-final Office action mailed June 22, 2004. Then on November 22, 2004, applicants filed the Information Disclosure Statement (IDS). Pursuant to 37 CFR § 1.704(c)(8), the 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, is a failure to engage in reasonable efforts to conclude prosecution. The record does not support a conclusion that the IDS was expressly requested by the examiner. Accordingly, filing of the IDS may be considered a failure to engage and a proper basis for reduction.

[1] PALM records indicate that the Issue Fee was also received on April 21, 2006.

However, the record supports a conclusion that the IDS was received November 22, 2004 with a 37 CFR 1.704(d) statement.

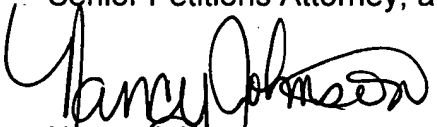
> 37 CFR 1.704(d) provides that a paper containing only an information disclosure statement in compliance with 37 CFR 1.97 and 1.98 will not be considered (result in a reduction) under 37 CFR 1.704(c)(6), 1.704(c)(8), 1.704(c)(9), or 1.704(c)(10) if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This provision will permit applicants to submit information first cited in a communication from a foreign patent office in a counterpart application to the Office without a reduction in patent term adjustment if an information disclosure statement is promptly (within thirty days of receipt of the first communication) submitted to the Office. Compliance with the statement requirement of 37 CFR 1.704(d) does not substitute for compliance with any relevant requirement of 37 CFR 1.97 or 1.98. 37 CFR 1.704(d) also provides that this thirty-day period is not extendableeply was expressly requested by the examiner, within the meaning of § 1.704(c)(8). Accordingly, no reduction is warranted.

In view thereof, no reduction should have been taken for the filing of the IDS after the mailing of the non-Final Office Action on March 23, 2005.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. 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.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

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

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JUL 0 8 2002

OFFICE OF PETITIONS

In re Application of
Hossein Alavi et al
Application No. 09/940,381
Filed: August 27, 2001
Attorney Docket No. 3927P004

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed June 19, 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 December 17, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of October 17, 2002 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2631 for examination in due course.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Francois Marquis	: DECISION ON REQUEST FOR
Patent Number	: 7599705	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/940,401	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1290** 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

LOUIS WOO
LAW OFFICE OF LOUIS WOO
717 NORTH FAYETTE STREET
ALEXANDRIA VA 22314

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DEC 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Bateman, et al. : DECISION ON PETITION
Application No. 09/940,419 :
Filed: August 29, 2001 :
Docket No.: 0100/0134 :

This is a decision on the petition to revive under 37 CFR 1.137(a) filed September 28, 2005. The alternative petition under 37 CFR 1.137(b) is deemed moot and has not been considered on the merits. Accordingly, no fee is due in connection with the alternative petition under 37 CFR 1.137(b). The required $500.00 petition fee in connection with the petition under 37 CFR 1.137(a) has been duly charged.

This application became abandoned April 27, 2005 for failure to timely submit a proper reply to the final Office action mailed January 26, 2005. The final Office action set a three month shortened period of time for reply. No petition for extension of time is of record. Notice of Abandonment was mailed September 21, 2005.

Petitioner asserts that a response to the final Office action was timely submitted April 11, 2005 and has submitted as proof of submission and receipt of said reply a copy of an "Auto-Reply Facsimile Transmission" which bears a receipt date of April 11, 2005.

A review of the official application file does not indicate receipt of the response allegedly submitted April 11, 2005. It is noted that the copy of the response allegedly resubmitted April 11, 2005 lacks a certificate of facsimile transmission in accordance with 37 CFR 1.8, however, in view of the copy of the "Auto-Reply Facsimile Transmission," the instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(a)

Accordingly, the petition under 37 CFR 1.137(a) is hereby **GRANTED**.

The application file is being forwarded to Technology Center 3700 for consideration of the proposed response and, if applicable, RCE.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

DR MELVIN BLECHER
4329 VAN NESS ST NW
SECOND FLOOR
WASHINGTON DC 20016-5625

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NOV 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Stephan, et al. :
Application No. 09/940,454 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. 64688/153 :

This is a decision on the Petition for Revival of an Application Abandoned Unavoidably Under 37 CFR 1.137(a), filed November 10, 2003.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The above-identified application became abandoned for failure to timely file a response to the Notice to File Corrected Application Papers, mailed October 9, 2001.[1] This Notice gave applicants an extendable period of reply of two months to file substitute drawings in compliance with 37 CFR 1.84. No extensions of time were obtained. No substitute drawings having been received, the above-identified application became abandoned on December 10, 2001. A Notice of Abandonment was mailed on November 5, 2003.

Consideration of petition under 1.137(a) (Unavoidable Delay)

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

[1] In his petition, petitioner points out that the Notice was allegedly sent via facsimile transmission, and not mailed. Apparently petitioner was advised of this in an oral conversation with an Office employee. While it is true that courtesy copies are sometimes sent via facsimile upon an applicant's request, the Office does not *sua sponte* engage in the practice of faxing original Office correspondence. There is no written record in the application file that the Notice was ever transmitted via facsimile. Petitioner is directed to 37 CFR 1.2.

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).

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."[2]

Petitioner contends that he did not receive the Notice to File Corrected Application Papers. To establish nonreceipt of an Office action, a practitioner must: (1) include a statement that the Office communication was not received; (2) attest to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (3) attach a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.[3] Here, petitioner has not included a copy of a satisfactory docket record.

A docket record consists of a "docket report showing **all** replies docketed...."[4] For example, as the Notice to File Corrected Application Papers set a two month period for reply, a petitioner must submit a copy of a docket report showing all replies docketed for a date two months from the mail date of the Notice.[5] Here, petitioner has only included a one page summary of the prosecution history in the above-identified application.

Other matters

Also in his petition, petitioner requests that the application be treated as special, and that 104 weeks be added to the patent term. Petitioner is directed to 37 CFR 1.4(c), which states that "[s]ince 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." Furthermore, petitioner is reminded that petitions to make special must be accompanied by the fee set forth in 37 CFR 1.17(h).

---

[2] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[3] See MPEP 711.03(c)(II).

[4] Id (emphasis added).

[5] See id.

With respect to petitioner's request that 104 weeks be added to the patent term, an application for patent term adjustment must be made pursuant to 37 CFR 1.705, and must be accompanied by the fee set forth in 37 CFR 1.18(e). An application for patent term adjustment can only be filed after mailing of the Notice of Allowance and prior to payment of the Issue Fee.

If petitioner can not establish that the entire period of delay was unavoidable, petitioner may revive the above-identified application under the provisions of 37 CFR 1.137(b), unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

Receipt of the substitute drawings submitted with the petition is acknowledged.

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, Virginia

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

Cliff by

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Stephan, et al.
Application No. 09/940,454
Filed: August 29, 2001
Attorney Docket No. 64688/153

ON PETITION

This is a decision on the Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed December 2, 2003.

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 Notice to File Corrected Application Papers, mailed October 9, 2001. This Notice gave applicants an extendable period of reply of two months to file substitute drawings in compliance with 37 CFR 1.84. No extensions of time were obtained. No substitute drawings having been received, the above-identified application became abandoned on December 10, 2001. A Notice of Abandonment was mailed on November 5, 2003. Petitioner filed a petition to revive under 37 CFR 1.137(a) on November 10, 2003. However, this petition was dismissed in a decision mailed on November 20, 2003.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply, corrected drawings, was previously filed on November 10, 2003.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH VA 22042

RECEIVED
DEC 19 2008
OFFICE OF PETITIONS

In re Application of	:	
Hideki Sawaguchi et al.	:	
Application No. 09/940,475	:	
Filed: August 29, 2001	:	DECISION ON TWO PETITIONS
Attorney Docket No. ASAM.0019	:	PURSUANT TO
Title: APPARATUS, SIGNAL-	:	37 C.F.R. §§ 1.137(B) AND
PROCESSING CIRCUIT AND DEVICE	:	1.181(A)
FOR MAGNETIC RECORDING SYSTEM	:	

This is a decision on the two petitions pursuant to 37 C.F.R. §§ 1.137(b) to revive this application, and 1.181(a) to withdraw the holding of abandonment, concurrently filed on October 27, 2008.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed June 16, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees.[1] Accordingly, the above-identified application became abandoned on September 17, 2008. A Notice of Abandonment was mailed on October 14, 2008.

1 See MPEP § 710.02(e).

With this petition, Petitioner has asserted that a response was timely filed on September 16, 2008, however Petitioner placed the wrong serial number on this submission - 09/940,075. Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such. Petitioner has further included a copy of this submission.

The electronic file that is associated with application number 09/940,075 has been reviewed, and a copy of this response has been located in the same. The submission of September 16, 2008 will be moved into the electronic file that is associated with the present application in due course.

Similarly, Office records confirm that both the issue fee and the publication fee were received on September 16, 2008, and associated with 09/940,075, pursuant to Petitioner's instructions. These fees will be moved into the electronic file that is associated with the present application in due course.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

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

It follows that the petition under 37 C.F.R. § 1.137(b) is **DISMISSED AS MOOT.** The associated fee has not been charged to Petitioner's Deposit Account.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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

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

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

Crowell & Moring
PO Box 14300
Washington, DC 20044-4300

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NOV 1 5 2001

OFFICE OF PETITIONS

In re Application of :
Stewart et al. :
Application No. 09/940,494 : DECISION REFUSING STATUS
Filed: August 29, 2001 : UNDER 37 CFR 1.47(a)
For: Process and Apparatus for Coagulating :
and Drying Latex

This is in response to the petition filed August 29, 2001, pursuant to the provisions of rule 37 CFR 1.47(a).

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 1.47(a)," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) set forth above.

As to item (1), the applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or reach the nonsigning inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate the nonsigning inventors.

In this regard, petitioner requests that the above-identified application be accorded rule 47(a) status on behalf of the available joint inventors and on behalf of a "a co-inventor who could not be located". Petitioner has provided the names and last known addresses of the two joint inventors whose signatures are missing from the declaration. However, no statement of facts or evidence in support of the petition

has been provided to show that inventors Ralph Spearman and Norhisham Sanusi have refused to sign the declaration after having been presented with the application papers or either could not be located to join in the application.

Where statements are made that the inventors could not be located, these statements must be supported by documentary evidence of the attempts made to locate the joint inventors. Was a complete copy of the application papers mailed to the last known addresses of the nonsigning inventors? Did the nonsigning inventors receive a complete copy of the application papers? Does petitioner have access to a current address, forwarding address, or an address of the nearest living relative of the nonsigning inventors? What does inspection of the phone directories for those address locations reveal? Has petitioner attempted to locate the nonsigning inventors in the Regional or National Registry(s)? If the nonsigning inventors are located, then a complete copy of the application papers (specification, claims, drawings, and oath or declaration) should be mailed to their addresses, return receipt requested, along with a cover letter of instructions which includes a deadline for returning the executed documents or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventors, e.g., through-email, the telephone, etc. fail, then applicant will have established that the inventors cannot be reached or have refused to join in the application. The statements of facts must be signed, where at all possible, by person having firsthand knowledge of the facts recited therein.

If the inventors are located and the inventors orally refuse to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Latrice Bond.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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PAPER NO. 7

CROWELL & MORING, LLP
P O BOX 14300
WASHINGTON DC 20044-4300

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FEB 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Robert M. Stewart et al :
Application No. 09/940,494 : DECISION GRANTING
Filed: August 29, 2001 :STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No: 817LR/50045 :
:

This is a decision on the petition filed January 15, 2002, requesting reconsideration of a decision mailed November 15, 2001, which refused to accord 37 CFR 1.47(a) status to the above-identified application.[1]

The petition is granted.

Petitioner has shown that the nonsigning inventors (Ralph Nicholas Spearman and Norhisham MD Sanusi) cannot be located to join in the filing of the above-identified application.

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

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

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks

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

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[1] The Office sincerely apologizes for the delay in replying to the instant petition and any inconvenience caused petitioner by this delay.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Norhisham MD Sanusi
c/o Linatex Rubbert Products SDN BHD
6 1/2 Mile Jalan IPOH
68100 Batu Caves
Selangor Darul Ehgan
MALAYSIA

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FEB 10 2003

OFFICE OF PETITIONS

In re Application of
Robert Michael Stewart; Chan Pak Kuen; Ralph Nicholas Spearman; Norhisham MD Sanusi; and David William Fountain
Application No. 09/940,494
Filed: August 29, 2001
For: PROCESS AND APPARATUS FOR COAGULATING AND DRYING LATEX

Dear Mr. Sanusi:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-8680. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:

Crowell & Moring, LLP
P O Box 14300
Washington, DC 20044-4300

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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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

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JUL 20 2007

OFFICE OF PETITIONS

In re Patent No. 7,061,727

Issue Date: June 13, 2006

Application No. 09/940,517

Filed: August 29, 2001

Attorney Docket No. **NIT-296**

ON PETITION

This is a decision on the petition filed March 26, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

2-27-07

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

Patent No. : 7,061,727
Ser. No. : 09/940,517
Inventor(s) : K. Hoshino, et. al.
Issued : June 13, 2006
Title : MAGNETORESISTIVE HEAD SING MULTILAYERED VARISTOR MATERIAL
Docket No. : NIT-296

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request 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.

Antonio Johnson
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 111** or (703) 308-8309

Gene W. Stockman
Mattingly, Stanger & Malur
1800 Diagonal Road, Suite 370
Alexandria, VA 22314

ej

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

DEC 10 2002

UR
PAPER NO. 5

In re Application of	:	
Loong-Tak Lim	:	
Serial Number: 09/940,518	:	
Filed: August 29, 2001	:	DECISION ON
For: METHOD AND DEVICE FOR TESTING	:	PETITION UNDER
ALDEHYDE IN POLYESTER POLYMER	:	M.P.E.P. 708.02, VIII

This is in response to the petition filed, October 23, 2002 requesting that the above-identified application be granted Special Status under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d) (fee paid).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is GRANTED.

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

Patent Administrator
Kitten Muchin Zavis Rosenman
525 West Monroe Street, Suite 1600
Chicago, IL 60661-3693

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JENKINS AND GILCHRIST
1445 ROSS AVENUE, SUITE 3200
DALLAS TX 75202

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JUL 14 2006

OFFICE OF PETITIONS

In re Application of :
Wolfinbarger et al. :
Application No. 09/940,545 : ON PETITION
Filed: August 29, 2001 :
Title: Plasticized Bone and Soft Tissue Grafts :
and Methods of Making and Using Same

This is a decision on the petition filed under 37 CFR 1.181 to withdraw the holding of abandonment filed May 4, 2006.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a response to the final Office Action of March 15, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR §1.136(a). This application became abandoned on June 16, 2005. A Notice of Abandonment was mailed on September 21, 2005.

Petitioner contends a reply to the March 15, 2005 final Office Action in the form of a Notice of Appeal and three month extension of time request were submitted on September 14, 2005. Petitioner has submitted a copy of the reply purportedly filed on September 14, 2005.

Petitioner's argument has been considered, but deemed unpersuasive. A review of the record shows that the request for Notice of Appeal and three month extension of time was received on September 14, 2005. However, both request authorized charging the applicable fees to invalid deposit account no. 3740-0395. A general authorization for

use by W. Jackson Matney, Jr. to charge fees was not previously provided. A second request for Notice of Appeal and three month extension of time was submitted on October 5, 2005. The October 5, 2005 request was untimely and inappropriately charged the requested fees to valid deposit account 50-3420. A third untimely request (which included a request for an oral hearing) was submitted on November 14, 2005. Both the October 5, 2005 and November 14, 2005 request for extension of time and Notice of Appeal were submitted beyond the maximum six month period for reply.

Further, the copy of the Notice of Appeal request provided by applicant on petition shows that the invalid deposit account number was crossed out and a valid deposit account number was entered. The copy provided on petition was not the copy that was transmitted to the Office on September 14, 2005. Accordingly, a timely request for Notice of Appeal and extension of time was not received because the requisite fees could not be charged due to the submission of an invalid deposit account. As such, the holding of abandonment cannot be withdrawn.

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.

Petitioner may wish to seek revival under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window,

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Stephanie A. Wardwell
Baker & McKenzie LLP
815 Connecticut Avenue, NW
Washington, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Baker & McKenzie
Penzoil Place, South Tower
711 Louisiana, Suite 3400
Houston TX 77002

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of
Wolfinbarger, Jr. et al.
Application No.09/940,545
Filed: August 29, 2001
Title: Plasticized Bone and Soft Tissue Grafts and Methods of Making and Using Same

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed August 7, 2006.

This above-identified application became abandoned for failure to timely file a response to the final Office Action of March 15, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR §1.136(a). This application became abandoned on June 16, 2005. A Notice of Abandonment was mailed on September 21, 2005. A petition under 37 CFR 1.181 was dismissed on July 14, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The application will be forwarded to Technology Center 3700 for further processing of the previously filed Notice of Appeal and Appeal Brief.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of:
WOLFINBARGER, LLOYD JR. et al
Serial No. 09/940,545
Filed: Aug. 29, 2001
Docket: 067949-5006-03
Title: PLASTICIZED BONE AND SOFT TISSUE GRAFTS AND METHODS OF MAKING AND USING SAME

2/12/09

DECISION ON PETITION
UNDER 37 CFR § 1.144

This is a decision on the petition filed February 3, 2009 under 37 CFR § 1.181 requesting a Director's signature on the final rejection of patent claims mailed on December 8, 2008. In the petition, petitioner pointed out that the final rejection mailed on December 8, 2008 was not signed by a Director in accordance with MPEP 1003. The examiner also failed to consider the IDS filed on December 3, 2008.

The petition is dismissed as moot.

The record shows on February 5, 2009, a final rejection with the Director's signature was mailed. In the office action of February 5, 2009, the examiner also included an initialed copy of the IDS filed by the applicant on December 3, 2008. In view of the examiner's action, decision on the petition is moot and subject to dismissal.

There is no fee for a petition under 37 CFR § 1.181. Therefore, no fee was charged to the petitioner's deposit account. Questions regarding the refund may be directed to the Office of Finance at 571-272-6500.

PETITION DISMISSED.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Robert Olszewski, Director
Technology Center 3700

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

NORRIS McLAUGHLIN & MARCUS PA
875 THIRD STREET, 18TH FLOOR
NEW YORK, NY 10022

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APR 12 2005

OFFICE OF PETITIONS

In re Application of :
Dirk Lenz :
Application No. 09/940,565 : DECISION GRANTING PETITION
Filed: August 28, 2001 : UNDER 37 CFR 1.137(b)
Atty Dkt No. Beiersdorf 738-KGB :

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 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 April 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 July 23, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a request for continued examination (RCE) and submission pursuant to the provisions of 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 April 22, 2004 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 1771 for processing of the RCE and for appropriate action on the concurrently filed amendment.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Gust H. Bardy, et al. :
Application No. 09/940,599 : ON PETITION
Filed: August 27, 2001 :
Attorney Docket No. 1201.1114101 :

This is a decision on the petition under 37 CFR 1.313(c)(1), filed October 26, 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 due to unpatentability of one or more claims. See 37 CFR 1.313(c)(1).

Petitioner is advised that the issue fee paid on September 30, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center 3762 for consideration of the amendment filed October 26, 2004.

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

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 6

MAIL

JUN 19 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
BRAUN, DAVID A.
Application No. 09/940,616
Filed: August 29, 2001
For: ELECTRONIC DOORBELL SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on April 10, 2003.

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

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

Accordingly, the request is **DENIED**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Alan E. Schiavelli
Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 100
Arlington, Virginia 22209

APR 24 2006

In re Application of Nakayama et al.	:	
Application Number : 09/940,638	:	DECISION ON
Filed: August 29, 2001	:	PETITION TO
Attorney Docket Number: 500.40580X00	:	WITHDRAW
For: Electroluminescent Film Device	:	FINALITY

This decision is in response to petitioner's "PETITION UNDER 37 C.F.R. § 1.181 WITHDRAWAL OF FINALITY OF OUTSTANDING OFFICE ACTION" filed 13 December 2005, to invoke the supervisory authority of the Director of the USPTO to review the action of the examiner in the above-identified application. The petition is before the Director of Technology Center 2800 for review.

The petition is **GRANTED** to the extent indicated below.

The Final Rejection mailed 19 April 2005 introduced a new ground of rejection that was not necessitated by the petitioner's amendment filed 7 January 2005. The finality will be withdrawn, the Office will send out a non-final office action and the shorten statutory period will be restarted.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 1, 2005

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction on Patent No.: 6,848,962

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please see the claim and title changes!

Thank You For Your Assistance

sp

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

To properly enter the amendment of 4/15/04.

Dean A. Reichard
SPE

2831
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.

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

COPY MAILED

JAN 18 2007

OFFICE OF PETITIONS

Patent No. 6,848,962	:	LETTER REGARDING
Issue Date: February 1, 2005	:	PATENT TERM ADJUSTMENT
Application No. 09/940,643	:	AND
Filed: August 29, 2001	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 35.C15729	:	CERTIFICATE OF CORRECTION

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed February 18, 2005. Pursuant to patentees' duty of good faith and candor to the Office, patentees request review of the Patent Term Adjustment for the above-identified patent.

The request for reconsideration of patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred seventy-two (272) days.

On February 1, 2005, this application matured into U.S. Patent No. 6,848,962, with a revised patent term adjustment of 283 days. Patentees give no basis for their assertion that this patent term adjustment is incorrect.

Nonetheless, a review of the application history confirms that patentees are correct that an additional period of reduction of 11 days is warranted. Pursuant to § 1.704(c)(8), a period of reduction of 11 days should have been entered for applicant delay in filing an Information Disclosure Statement (IDS) on November 18, 2003 after having filed a Request for Continued

Examination (RCE) and submission on November 7, 2003. The IDS was not expressly requested by the examiner. The IDS did not include a § 1.704(d) statement. Accordingly, pursuant to 1.704(c)(8), a reduction of 11 days for the period from November 8, 2003 to November 18, 2003 should have been entered.

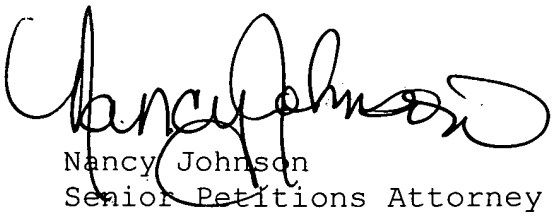
In view thereof, the patent should have issued with a revised patent term adjustment of two hundred seventy-two (272) days.

It is noted that the PALM Intranet record suggests that further IDSs were filed on November 25, 2003 and December 12, 2003. However, a review of the Image File Wrapper (IFW) for this application, which is the Official record of the papers filed in this application, indicates that no such IDSs were filed in this application, as no such papers are present in the IFW record.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **TWO HUNDRED SEVENTY-TWO (272)** days.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,848,962 B2

DATED : February 1, 2005

INVENTOR(S) : Kitamura et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (283) days

Delete the phrase "by 283" and insert – by 272 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 6300
SEATTLE, WA 98104-7092

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of
David D. Townsend
Application No. 09/940,682
Filed: August 27, 2001
Attorney Docket No. 150026.464

: 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 October 27, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/484,593, filed June 7, 1995, as set forth in the corrected amendment filed January 13, 2005.[1]

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 in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

---

[1] The amendment filed with the petition of October 27, 2004 indicated that the prior-filed nonprovisional application was abandoned, when, in fact, the application issued as Patent No. 6,387,650 on May 14, 2002.

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 above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. 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 1651 for processing of the Request for Continued Examination filed January 13, 2005 and for appropriate action on the amendment filed January 13, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

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

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/27/07

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction on Patent No.: 7127379

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

1631
Art Unit

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

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

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of :
George Jackowski, et al. :
Application No. 09/940,698 : ON PETITION
Filed: August 27, 2001 :
Attorney Docket No. 2132.022 :

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 Restriction Requirement mailed October 20, 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 November 21, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1641 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 17 2006

OFFICE OF PETITIONS

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

In re Application of :
Schachar : DECISION ON PETITION
Application No. 09/940,722 :
Filed: August 27, 2001 :
Atty. Dkt. No.: PRES06-00217 :

This decision is in response to the petition under 37 CFR 1.181 filed February 16, 2006.

This application was held abandoned June 8, 2005, for failure to timely file a proper response to the Office communication mailed May 7, 2005. The Office communication set a one month shortened statutory period for reply. Notice of Abandonment was mailed December 19, 2005.

Petitioner argues that the Office communication mailed May 7, 2005 was not received at the correspondence address of record for the instant application.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a copy of the docket record where the Office communication would have been entered had it been received along with a statement from

practitioner that a search of the docket record and file jacket indicated that the Office communication was not received.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being directed to Technology Center 3700 for consideration of the response to the Office communication that was submitted March 1, 2005.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 7 2005

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

In re Application of:
Donald W. Landry
Serial No.: 09/940,727
Filed: August 28, 2001
Attorney Docket No.: 51400-B/JPW/AJM/MML

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the petition under 37 CFR § 1.181, filed August 2, 2004, for withdrawal of abandonment of the above-identified application based on failure to timely pay the issue fee and publication fee, if applicable. The delay in responding to this petition is regretted.

A review of the file history shows that the examiner mailed a Notice of Allowability, and Notice of Allowance and Fee(s) Due to applicant on October 1, 2003, setting a three-month shortened statutory period for reply. On June 30, 2004, a Notice of Abandonment for failure to pay the required fee(s) was mailed.

Applicant states that in lieu of a response to the Notice of Allowance and Fee(s) Due, applicant filed an RCE, a check for $385.00 and an IDS on December 19, 2003 within the three-month shortened statutory period for reply. Applicant provides as evidence a copy of the request for continued examination (which includes a certificate of mailing date of December 19, 2003), a copy of the fee transmittal sheet and the IDS with mail deposit certification of December 19, 2003. In view of this evidence, applicant is considered to have submitted a timely reply.

The petition is **GRANTED.**

This application will be forwarded to the Legal Instrument Examiner for processing of the Request for Continued Examination and then forwarded to the examiner for consideration of the response of December 19, 2003.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

/Marianne C. Seidel for/

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 2

CHUN M. NG
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

MAIL

FEB 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Cheng-Hao Chou :
Application No. 09/940,737 :
Filed: August 27, 2001 :
For: **SUBSCRIBER IDENTITY MODULE CARD BACKUP SYSTEM** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on November 18, 2002.

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

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

All attorneys and agents of record in this application are removed from record.

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

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

cc: Clement Cheng, Esq.
17220 Newhope Street, #127
Fountain View, CA 92708

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

GODFREY & KAHN, S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202

COPY MAILED

MAR 1 8 2002

OFFICE OF PETITIONS

In re Application of
Kryloff & Basin
Application No. 09/940,771
Filed: August 27, 2001
Attorney Docket No. 009785-0130
For: SOFTWARE PATCH GENERATOR

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed December 26, 2001(certificate of mailing date December 12, 2001).

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, in a statement of facts of patent attorney William K. Baxter, rule 47 applicant details the presentation of the application papers (specification, claims, drawings and declaration) via Electronic Mail (E-mail) to non-signing inventor Kryloff, and the inventor's subsequent refusal by return E-mail. In support thereof, rule 47 applicant submits documentary evidence in the form of a response E-mail from the non-signing inventor, in which, the inventor states that he will not join in the filing of the application. The text of the non-signing inventor's response E-mail supports a conclusion that the inventor has been apprised of the application to which the oath or declaration is directed. Accordingly, it is concluded that rule 47 applicant has submitted adequate proof that the non-signing inventor has refused to join in this application after having been presented with the application papers. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

This file is being forwarded to Technology Center 2100 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
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

SERGEY A. KRYLOFF
10-2 UCHEBNY PEREULOK STREET
NO. 84
SAINT PETERSBURG, RUSSIA 194354

COPY MAILED

MAR 1 8 2002

OFFICE OF PETITIONS

In re Application of
Kryloff & Basin
Application No. 09/940,771
Filed: August 27, 2001
Attorney Docket No. 009785-0130
For: SOFTWARE PATCH GENERATOR

LETTER

Dear Mr. Kryloff:

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

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

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

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

E. Shirene Willis

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

ATTORNEY OF RECORD: GODFREY & KAHN, S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-16-2004

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction on Patent No.: **6,734,274**

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance — **Certificates of Correction Branch**

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

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

Comments:

The word "harness", within the Certificate of Correction should be "hardness". If this word was spelled correctly, the corrections would be approved.

Rabon Sergent
RABON SERGENT
PRIMARY EXAMINER

1711

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 13 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

In re Application of:
Chui-Kuei Chiu
Application Serial No.: 09/940,829
Filed: August 27, 2001
For: **METHOD OF CHANGING DRIVING SEQUENCE TO OUTPUT CHARGE COUPLE DEVICE SIGNAL**

DECISION
ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR § 1.181 filed August 24, 2005.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper response to the non-final Office action mailed March 17, 2005. A Notice of Abandonment was mailed on June 21, 2005.

A review of the record indicates that the Notice of abandonment was mailed shortly after the shortened statutory period expired and well before the end of the extendable six month statutory period for reply. Applicant was given no opportunity to petition for extension of time as appropriate.

Accordingly, the Notice of Abandonment is hereby vacated and the application is restored to pending status.

A review of the file finds that an amendment and response including a petition for a three month extension of time were timely filed on August 24, 2005. Therefore, the application is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF, LTD.
1100 13th STREET NW,SUITE 1200
WASHINGTON DC 20005-4051

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of
Richard ROTHMAN, et al.
Application No. 09/940,860
Filed: August 29, 2001
Attorney Docket No. **001107.00185**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 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, November 27, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 28, 2008.

The petition is not accompanied by a statement of express abandonment in favor of the filing of a continuing application. In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuing application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application 12/348,558 filed January 5, 2009.

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

Brian W. Brown
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

APR - 5 2004

LEXICON GENETICS INCORPORATED
8800 TECHNOLOGY FOREST PLACE
THE WOODLANDS, TX 77381-1160

In re Application of
Carl Friddle :
Serial No.: 09/940,921 : WITHDRAWAL OF ABANDONMENT
Filing Date: August 28, 2001 :
Attorney Docket No. LEX-0227-USA :

This letter is in response to the Petition under 37 CFR ¶ 1.181, filed September 8, 2003, to withdraw the notice of abandonment.

A review of the file history shows that the Office mailed a Notice of Abandonment on July 8, 2003 for failure to respond to an Office action, which was received by Applicant. An Office action was mailed on February 4, 2003 of which Applicant alleges was never received. In support of this statement a copy of Applicants' representatives' Mail Log was enclosed for the month of February (Mail dates and Serial Nos.) which included all US cases received on which the abovementioned action was not included. Also Applicant has demonstrated through exhibits A-D that their Office has a functioning mail and docketing system in place. It is the position of the Office that Applicant has diligently searched their records and the Office action was never received.

DECISION

The Petition is **GRANTED**.

The application will be forwarded to the proper location for re-mailing of the Office action and forwarded to the Examiner for further prosecution on the merits.

Should there be any questions with regard to this letter, please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria, VA 22313-1450 or by telephone at (571) 272-0512 or by facsimile transmission at (703) 872-9306.

J Burke for
Bruce Kisliuk
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **12/15/2005**

TO SPE OF : ART UNIT **1600(1652)**

SUBJECT : Request for Certificate of Correction on Patent No.: **RE38,687**

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Okay to make dependency change in claim 54 as requested in C of C? Yes, ES

Ernest C. White, LIE305-8339
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:
All changes are OK with one exception that is the change in the Sequence Listing. this change changes the scope of the Specification and cannot be made by C of C. ES

[signature] 1652
SPE **Art Unit**

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

Copied from 10800229

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

Julia G.M. BackenKeller
414 N. Pine Street
Janesville WI 53548

COPY MAILED

MAR 17 2006

OFFICE OF PETITIONS

In re Application of :
Watson et al. :
Application No. 09/940,969 : ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. 79368.000 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 1, 2005 and resent on January 13, 2006.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit a complete set of corrected drawings, as required by the Notice Regarding Drawings which was mailed October 28, 2004. The Notice Regarding Drawings set a one (1) month period for reply. A reply was submitted on December 13, 2004. However, a Notice of Abandonment was mailed indicating the reply submitted on December 13, 2004 was not a proper reply because replacement figures 3-13 were not submitted as required.

Petitioner states she received the Notice Regarding Drawings and called the examiner. Petitioner states the examiner faxed a copy of the drawing and a letter regarding the changes to the drawing. Petitioner believed the corrected drawing was sufficient and relied upon the assistance the examiner provided. Petitioner insist that she had no intention to abandon her application.

Petitioner's argument has been considered, but is not persuasive to establish the abandonment should be withdrawn. The Notice Regarding Drawings clearly states that the drawings were objected to because "the lines, numbers and letters are not uniformly thick, and well defined, clean, durable and black (poor line quality) figs. 1-13". The Notice also required corrected drawings. As such petitioner was required to send in corrected drawings for figures 1-13, not just figures 1 and 2. The interaction petitioner

had with the examiner cannot supersede the requirements presented in the Notice Regarding Drawings. Further, to the extent there was confusion or uncertainty as to the requirements, petitioner could have sought clarification from the draftsperson whose number was provided in the Notice.

Pursuant to 37 CFR 1.2, all business with the Patent and Trademark Office should be transacted in writing. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. It should be noted the letter from the examiner constitutes unofficial communication which is not deemed as part of the record.

While unfortunate, the application remains abandoned. It is further noted, petitioner has yet to comply with the Notice Regarding Drawings by sending in a complete set of corrected drawings.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street

Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Julia G.M. BackenKeller
414 N. Pine Street
Janesville WI 53548

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of
Watson et al.
Application No. 09/940,969
Filed: August 28, 2001
Attorney Docket No. 79368.000

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed June 13, 2006.

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

This application became abandoned for failure to timely submit a complete set of corrected drawings, as required by the Notice Regarding Drawings which was mailed October 28, 2004. The Notice Regarding Drawings set a one (1) month period for reply. A reply was submitted on December 13, 2004. However, a Notice of Abandonment was mailed indicating the reply submitted on December 13, 2004 was not a proper reply because replacement figures 3-13 were not submitted as required.

Petitioner states she received the Notice Regarding Drawings and called the examiner. Petitioner states the examiner faxed a copy of the drawing and a letter regarding the changes to the drawing. Petitioner believed the corrected drawing was sufficient and relied upon the assistance the examiner provided. Petitioner insist that she had no intention to abandon her application. On renewed petition, petitioner continues to advance the same arguments of her earlier petitions. However, petitioner now states that she contacted the draftsperson but due to a language barrier she was required to contact the examiner.

Petitioner's argument has been considered, but is not persuasive to establish the abandonment should be withdrawn. The Notice Regarding Drawings clearly states that the drawings were objected to because "the lines, numbers and letters are not uniformly thick, and well defined, clean, durable and black (poor line quality) figs. 1-13". The Notice also required corrected drawings. As such petitioner was required to send in corrected drawings for figures 1-13, not just figures 1 and 2. The interaction petitioner

had with the examiner cannot supersede the requirements presented in the Notice Regarding Drawings.

Pursuant to 37 CFR 1.2, all business with the Patent and Trademark Office should be transacted in writing. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. It should be noted the letter from the examiner constitutes unofficial communication which is not deemed as part of the record.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

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

Petitioner is also reminded that any future correspondence should contain the application number.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 21 2007

OFFICE OF PETITIONS

Julia G.M. BackenKeller
719 North Grant Avenue
Janesville WI 53548

In re Application of :
Watson et al. :
Application No. 09/940,969 : DECISION ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. 79368.000 :

This is a decision on the petition under 37 CFR §1.137(b), filed January 25, 2007 to revive the above-identified application.

This application became abandoned for failure to timely submit a complete set of corrected drawings, as required by the Notice Regarding Drawings which was mailed October 28, 2004. The Notice Regarding Drawings set a one (1) month period for reply. A reply was submitted on December 13, 2004. However, a Notice of Abandonment was mailed indicating the reply submitted on December 13, 2004 was not a proper reply because replacement figures 3-13 were not submitted as required. Petitions were dismissed on January 5, 2006 and July 17, 2006.

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 corrected drawings submitted with the instant petition.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Matingly, Stanger, Malur & Brundidge, P.C.
1800 Diagonal Road
Suite 3700
Alexandria VA 22314

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JUL 10 2007

TECHNOLOGY CENTER 2100

In re Application of:
Endo, et al.
Application No. 09/940,982
Filed: August 29, 2001
For: Tamper Resistance Device

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed March 7, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require entry and consideration of the supplemental amendment of November 24, 2006.

The petition is **DISMISSED**.

File History

Advisory Action Mailed out October 30, 2006 indicating non-entry of the after final amendment submitted October 16, 2006.

A proper RCE was filed with indication to enter October 16, 2006 amendment.

On November 24, 2006 a supplemental amendment adding claims was filed.

On February 20, 2007 in the non-final office action the office indicated that the amendment of November 24, 2006 was not entered as it was not clearly limited to the responses provided for by 37 CFR 1.111(a)(2)(i).

The petition argues that the preliminary amendment of November 24, 2006, is not a "supplemental reply", the entry of which is provided for in 37 CFR 1.111(a)(2). That paragraph states, "A reply that is supplemental to a reply that is in compliance with 1.111(b) will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section". The "reply" is the reply mentioned in the title of 1.111, "Reply by applicant or patent owner to a non final Office Action." The preliminary amendment by contrast, did not itself reply to any non-final office action and was not supplemental to a reply to a non-final office action. Indeed, the prior Preliminary amendment with the RCE is a submission required by 37 CFR 1.114 and not a "reply". It appears then that the preliminary amendment is not specifically governed by any rules under 37 CFR. However petition submits that the amendment in question is more similar

to a preliminary amendment filed after a new application than as a supplemental reply to a non-final office action.

The Law

§ 1.111 Reply by applicant or patent owner to a non-final Office action.

(a) (1) If the Office action after the first examination (§ 1.104) is adverse in any respect, the applicant or patent owner, if he or she persists in his or her application for a patent or reexamination proceeding, must reply and request reconsideration or further examination, with or without amendment. See §§ 1.135 and 1.136 for time for reply to avoid abandonment.

(2) Supplemental replies . (i) **A reply that is supplemental to a reply that is in compliance with § 1.111(b) will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section.** The Office may enter a supplemental reply if the supplemental reply is clearly limited to:

(A) Cancellation of a claim(s);

(B) Adoption of the examiner suggestion(s);

(C) Placement of the application in condition for allowance;

(D) Reply to an Office requirement made after the first reply was filed;

(E) Correction of informalities (e.g., typographical errors); or

(F) Simplification of issues for appeal.

(ii) A supplemental reply will be entered if the supplemental reply is filed within the period during which action by the Office is suspended under § 1.103(a) or (c).

(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

(c) In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

§ 1.114 Request for continued examination.
(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;
(2) Abandonment of the application; or
(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.
(c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. **If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.**
(d) If an applicant timely files a submission and fee set forth in § 1.17(e), **the Office will withdraw the finality of any Office action and the submission will be entered and considered.**

§ 1.115 Preliminary amendments.
(a) A preliminary amendment is an amendment that is received in the Office (§ 1.6) on or before the mail date of the first Office action under § 1.104.

A review of the record and the law indicates that that the November 24, 2006 amendment was a supplemental reply because a proper RCE in an application finally rejected includes a submission that complies with 37 CFR 1.111. See 37 CFR 1.114(c) supra. Thus, the November 8, 2006 amendment is the first reply and the November 24, 2006 amendment would be a supplemental reply. 37 CFR 1.111(a)(2) states that supplemental replies will not be entered as a matter of right. The November 24, 2006 amendment is not a preliminary amendment as 37 CFR 1.115 states that a preliminary amendment is an amendment that is received in the office before the mail date of a first office action. A proper RCE lifts the finality of the previous office action and does not vacate the previous office actions. Therefore, the office actions mailed out in this application on October 3, 2005 and May 8, 2006 were before the November 24 2006 amendment. Therefore the non-entry and consideration of the supplemental amendment was proper.

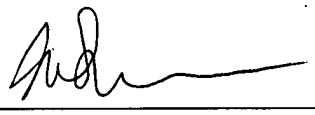
The petition is **DISMISSED.**

The period for response continues to run from the February 20, 2007 office action and claims 1-8 are pending. If petitioner wants the November 24, 2006 non entered amendment considered a continuation application could be filed or a new amendment could be submitted with the

response to the outstanding office action. These newly submitted claims as with any newly submitted claims would be looked at to see if an election by original presentation would be proper.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.



Tod Swann QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,982	08/29/2001	Takashi Endo	NIT-295	5993

24956 7590 11/20/2007

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER	
DAVIS, ZACHARY A	

ART UNIT	PAPER NUMBER
2137	

MAIL DATE	DELIVERY MODE
11/20/2007	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.

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Daniel Stanger
Matingly, Stanger, Malur & Brundidge, P.C.
1800 Diagonal Road
Suite 3700
Alexandria VA 22314

MAILED

NOV 19 2007

TECHNOLOGY CENTER 2100

In re Application of:
Endo, et al.
Application No. 09/940,982
Filed: August 29, 2001
For: Tamper Resistance Device

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the refilled petion filed July 20, 2007 of the dismissed petition filed March 7, 2007 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require entry and consideration of the supplemental amendment of November 24, 2006.

The petition is **DENIED**.

File History

Advisory Action Mailed out October 30, 2006 indicating non-entry of the after final amendment submitted October 16, 2006.

A proper RCE was filed with indication to enter October 16, 2006 amendment.

On November 24, 2006 a supplemental amendment adding claims was filed.

On February 20, 2007 in the non-final office action the office indicated that the amendment of November 24, 2006 was not entered as it was not clearly limited to the responses provided for by 37 CFR 1.111(a)(2)(i).

The petition argues that the preliminary amendment of November 24, 2006, is not a "supplemental reply", the entry of which is provided for in 37 CFR 1.111(a)(2). That paragraph states, "A reply that is supplemental to a reply that is in compliance with 1.111(b) will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section". The "reply" is the reply mentioned in the title of 1.111, "Reply by applicant or patent owner to a non final Office Action." The preliminary amendment by contrast, did not itself reply to any non-final office action and was not supplemental to a reply to a non-final office action. Indeed, the prior Preliminary amendment with the RCE is a submission required by 37 CFR 1.114 and not a "reply". It appears then that the preliminary amendment is not specifically governed by any rules under 37 CFR. However petition submits that the amendment in question is more similar

to a preliminary amendment filed after a new application than as a supplemental reply to a non-final office action.

The Law

§ 1.111 Reply by applicant or patent owner to a non-final Office action.

(a) (1) If the Office action after the first examination (§ 1.104) is adverse in any respect, the applicant or patent owner, if he or she persists in his or her application for a patent or reexamination proceeding, must reply and request reconsideration or further examination, with or without amendment. See §§ 1.135 and 1.136 for time for reply to avoid abandonment.

(2) Supplemental replies . (i) **A reply that is supplemental to a reply that is in compliance with § 1.111(b) will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section.** The Office may enter a supplemental reply if the supplemental reply is clearly limited to:

(A) Cancellation of a claim(s);
(B) Adoption of the examiner suggestion(s);
(C) Placement of the application in condition for allowance;
(D) Reply to an Office requirement made after the first reply was filed;
(E) Correction of informalities (e.g., typographical errors); or
(F) Simplification of issues for appeal.

(ii) A supplemental reply will be entered if the supplemental reply is filed within the period during which action by the Office is suspended under § 1.103(a) or (c).

(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

(c) In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

§ 1.114 Request for continued examination.
(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;
(2) Abandonment of the application; or
(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.
(c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. **If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.**
(d) If an applicant timely files a submission and fee set forth in § 1.17(e), **the Office will withdraw the finality of any Office action and the submission will be entered and considered.**

§ 1.115 Preliminary amendments.
(a) A preliminary amendment is an amendment that is received in the Office (§ 1.6) on or before the mail date of the first Office action under § 1.104.

A review of the record and the law indicates that that the November 24, 2006 amendment was a supplemental reply because a proper RCE in an application finally rejected includes a submission that complies with 37 CFR 1.111. See 37 CFR 1.114(c) supra. Thus, the November 8, 2006 amendment is the first reply and the November 24, 2006 amendment would be a supplemental reply. 37 CFR 1.111(a)(2) states that supplemental replies will not be entered as a matter of right. The November 24, 2006 amendment is not a preliminary amendment as 37 CFR 1.115 states that a preliminary amendment is an amendment that is received in the office before the mail date of a first office action. A proper RCE lifts the finality of the previous office action and does not vacate the previous office actions. Therefore, the office actions mailed out in this application on October 3, 2005 and May 8, 2006 were before the November 24 2006 amendment. Therefore the non-entry and consideration of the supplemental amendment was proper.

Request for Reconsideration

In the request for reconsideration petitioner asked for relief as a long period of time occurred between the filing of the new claims and the mailing of the next office action and that the examiner did not mention that there was burden because of the delayed filing of the second

amendment. Petitioner additionally requests that if the petition is granted that the next action will not be made final.

A subsequent review of the record reveals that a third amendment was filed on July 20, 2007, and entered duplicating the claims of the supplemental amendment that was previously not entered. A review of the law and the MPEP especially MPEP 714.03(a) fails to find support requiring the examiner to take into account burden or the length of time between the filing of the supplemental amendment and the next action. As such the non entry of the supplemental amendment is maintained. As the petition is not granted, the request for the next action being made non final is moot.

The petition is **DENIED.**

The application status of this application is on the examiner's amended docket awaiting consideration of the amendment and arguments submitted July 20, 2007.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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KEATING & BENNETT LLP
10400 EATON PLACE, SUITE 312
FAIRFAX, VA 22030

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SEP 0 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michio Kadota et al :
Application No. 09/940,988 :
Filed: August 28, 2001 :
Attorney Docket No. 36856.541

This is a decision on the petition, filed August 25, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The file will be forwarded to Technology Center AU 3729 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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APR 11 2005

OFFICE OF PETITIONS

KEATING & BENNETT LLP
10400 EATON PLACE, SUITE 312
FAIRFAX, VA 22030

In re Application of :
Michio Kadota et al :
Application No. 09/940,988 : ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. 36856.541

This is a decision on the petition, filed April 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 3729 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Date : April 8, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 09/940,988

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APR 11 2005

OFFICE OF PETITIONS

Applicant(s) : Michio Kadota et al
Application No. : 09/940,988
Filed : August 28, 2001

The above-identified application has been assigned Patent No. 6,883,214 and an issue date of April 26, 2005.

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: April 26, 2005.

> "All reference to Patent No. 6,883,214 to Michio Kadota et al of Japan for METHOD FOR ADJUSTING A FREQUENCY CHARACTERISTIC OF AN EDGE REFLECTION TYPE SURFACE ACOUSTIC WAVE DEVICE appearing in the Official Gazette of April 26, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE FL 32606-6669

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OFFICE OF PETITIONS

Paper No. 8

In re Application of
Sanford D. Altman
Application No. 09/941,012
Filed: August 28, 2001
Attorney Docket No. OAV-100

ON PETITION

This is a decision on the petition, filed by facsimile transmission on May 30, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 7, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3764 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).

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Paper No. 11

Saliwanchik Lloyd & Saliwanchik
A Professional Association
2421 N.W. 41st Street
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Gainesville, FL 32606-6669

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AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Sanford D. Altman :
Application No. 09/941,012 : DECISION GRANTING PETITION
Filed: August 28, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. OAV-100 :

This is a decision on the petition, filed July 24, 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 instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 28, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth the projected publication date of December 4, 2003, accompanies this decision on petition.

The $650.00 petition fee will be charged to Deposit Account No. 19-0065, as authorized by petitioner.

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

This application is being forwarded to Technology Center Art Unit 3764.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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UNITED STATES PATENT AND TRADEMARK OFFICE
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NOV 14 2003

Paper No. 13

In re Application of :
Melvin Hatch : DECISION ON PETITION
Application No. 09/941,029 :
Filed: August 28, 2001 :
Attorney Docket No. NM Tech 8

This is a decision on the petition filed by on October 31, 2003 by which petitioner requests supervisory review of the examiner's refusal to enter the proposed drawing correction filed on April 15, 2003 as containing prohibited new matter. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Initially, it is noted that this petition is technically not timely filed within the meaning of 37 CFR 1.181(f). The action complained of is not the examiner's indication that the appeal brief filed on September 24, 2003 raises an issue that is proper for petition, and therefore, improper for consideration by the Board of Patent Appeals and Interferences on appeal. Rather, the action complained of is the examiner's refusal to enter the proposed drawing corrections filed as part of paper No. 6. The refusal to enter the proposed drawing corrections occurred on April 25, 2003, as part of paper No. 7, the examiner's advisory action. Clearly this petition was filed more than two months after the examiner's refusal to enter the drawing corrections. However, as the application is under appeal and it appears to be petitioner's intention to proceed with the appeal, the petition will be treated on its merits (note that 37 CFR 1.181(f) says that a petition filed more than two months after the action complained of "may" be dismissed as being untimely filed).

Petitioner alleges that the proposed drawing correction filed on April 15, 2003, a copy of which is attached to the petition, is fully supported by the original application disclosure, in particular the disclosure found in the specification of the application at the top of page 5. Petitioner, therefore, requests entry of the proposed drawing correction.

A review of this application shows that as originally filed, this application discloses two specific embodiments of a metallic heat conducting support for a round or curved bottom vessel such as a flask, especially a glass flask (specification, pages 4-8). The structure of the support is that an inner portion 21 concavely curved at bottom 22 to compliment the curved lower surface of a curved or round bottom vessel is joined to an outer portion 24. The outer portion extends downwardly from the joint between the inner and outer portions so that the outer portion "surrounds" the inner portion. The outer portion extends towards a supporting base, designated by the reference numeral 26. The base could be formed unitarily with the outer portion (specification, page 4 lines 22-23) or could be formed out of a separate piece of material (specification, page 5, lines 1-3). The base 26 is described as being substantially flat or as having a flat portion, and if formed from a separate piece of material, the base may be continuous or it may have apertures therein, (specification, page 5, lines 6-8). The base is described as having any desired shape, and the two disclosed embodiments differ in that in the Figure 1-2 embodiment, the base is "essentially square" with rounded corners, while in the Figure 3-4 embodiment, the base is circular (specification page 5, lines 8-14). In both embodiments that are specifically disclosed, base 26 is described as being a brim 27 that extends radially outwardly from where the outer portion 24 joins base 26 and provides rigidity and support for base 26. However, the brim 27 is disclosed as "not necessary", and may be eliminated altogether, (specification, page 6 lines 3--15), resulting in base 26 being the lowermost edge of outer portion 24. Brim 27, if used, may be extended as far as necessary, (specification, page 6 lines 3--15).

The examiner first objected to the drawings as originally filed in the examiner's first Office action. The drawings were objected to as failing to illustrate a base having apertures and as failing to illustrate a separately formed base attached to the outer portion (paper No. 3, page 2, first two paragraphs). The basis for the objection was 37 CFR 1.83 which requires, *inter alia*, that the drawing in a nonprovisional application show every feature of the invention specified in the claims. Original claim 8 calls for a base that has apertures, while original claim 10 recites the base as being an element that is separate from, and attached to, an outer portion of the support. In response to the examiner's objection, petitioner filed a proposed drawing correction (part of paper No. 4). However, the examiner refused entry, holding that the correction as proposed contained new matter (paper No. 5, page 2, paragraph 1). The examiner again objected to the drawings under 37 CFR 1.83 and required corrected drawings (paper No. 5, page 2, paragraphs 2-3).

In response to paper No. 5, petitioners submitted the proposed drawing corrections as part of paper No. 6. The examiner held those proposed corrections, which differ from the corrections proposed as part of paper No. 4, to be prohibited new matter, and declined to enter them.

After consideration of the arguments presented in the petition, and the original application disclosure as discussed above, including the original drawings which are not reproduced here but can be understood from the discussion below, it is clear that the drawing correction proposed in paper No. 6 does in fact contain prohibited new matter.

Nowhere in the original specification, claims or drawings is there any illustration of the base 26 as comprising a sheet of material that extends radially inwardly of outer portion 24, and completely beneath inner portion 21 and rounded bottom 22 of the support. Figures 1 and 3 are cross section views of the support taken in a vertical plane running through the center of the support (see Figures 2 and 4), and do not show the support extending radially inwardly of the outer portion 24, let alone beneath inner portion 21 and rounded bottom 22, in the manner illustrated by proposed Figure 1a filed as part of paper No. 6. Indeed, the specification describes base 26 as being the sole necessary "base" (specification, page 6, lines 3-15), or as including brim 27 which extends radially outwardly of the outer portion 24. However, proposed Figure 1a shows what can only be taken as a sheet of material extending completely beneath the support, because the proposed figure is a sectional view, and the element labeled 26 extends beneath the inner portion 21, rounded bottom 22 and outer support member 24 radially inwardly of these elements.

While it is appreciated that brim 27 is described as being "essentially square" or, in a second embodiment, as being "circular", this description does not imply that the brim 27 extends radially inwardly of elements 21, 22 and 24. Clearly, such an interpretation is not the only necessary and reasonable interpretation of petitioner's disclosure. It is equally reasonable, from petitioner's explicit disclosure as a whole, to conclude that base disclosed by petitioner is a radially outwardly extending "brim" that extends outside of outer portion 24 for any desired length, as in United States Patent 4,726,553 (cited in the present record) which shows a member 32 that is not a complete sheet that extends beneath the supported receptacle but is merely a radially outwardly extending flange, notwithstanding the description in USP 4,726,553 of member 52 as being "square." Alternatively, it is clear that petitioner's base 26 may simply consist of the bottom edge of outer portion 24 in a manner similar to the lowermost portion of element 1 of United States Patent 1,651,346 (cited in the present record). But there is absolutely no reason for one of ordinary skill in the art reading petitioner's disclosure to conclude that the base originally disclosed by petitioner is of the form illustrated in proposed Figure 1a that was filed as part of paper No. 6, wherein element 27 extends beneath embers 21 and 22 completely across petitioner's support.

As the drawing correction proposed in paper No. 6 clearly contains prohibited new matter by illustrating brim 27 as an element that extends radially inwardly of outer portion 24 beneath elements 21 and 22 of petitioner's support member, from one side of petitioner's support to the other, it is clear that the examiner did not act in an arbitrary or capricious manner, or abuse his discretion, in holding that the proposed drawing correction filed on April 15, 2003 and refusing to enter the proposed correction for that reason.

Petitioner may file a renewed petition, presenting additional evidence supporting petitioner's contention that the proposed drawing correction filed on April 15, 2003 does not contain new matter. However, the renewed petition must be filed within two months of the date of this decision. See 37 CFR 1.181(f). The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3727 to take appropriate action with respect to the appeal brief filed concurrently with this petition.

PETITION DISMISSED.

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

Robert W. Becker and Associates
707 Highway 66 East
Suite B
Tijeras, NM 87059

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MAR 26 2004

Paper No. 16

In re Application of
Melvin Hatch
Application No. 09/941,029
Filed: August 28, 2001
Attorney Docket No. NM Tech 8

: DECISION ON
: RENEWED PETITION

This is a decision on the renewed petition filed on January 16, 2004 by which petitioner again requests supervisory review of the examiner's refusal to enter the proposed drawing correction filed on April 15, 2003 as containing prohibited new matter. The renewed petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The renewed petition is dismissed.

In the original petition filed on October 31, 2003, petitioner alleged that the proposed drawing correction filed on April 15, 2003, a copy of which was attached to the petition, is fully supported by the original application disclosure, in particular the disclosure found in the specification of the application at the top of page 5. Petitioner, therefore, requested entry of the proposed drawing correction.

The original petition was dismissed on the basis of the following analysis of the application disclosure as originally filed:

A review of this application shows that as originally filed, this application discloses two specific embodiments of a metallic heat conducting support for a round or curved bottom vessel such as a flask, especially a glass flask (specification, pages 4-8). The structure of the support is that an inner portion 21 concavely curved at bottom 22 to compliment the curved lower surface of a curved or round bottom vessel is joined to an outer portion 24. The outer portion extends downwardly from the joint between the inner and outer portions so that the outer portion "surrounds" the inner portion. The outer portion extends towards a supporting base, designated by the reference numeral 26. The base could be formed unitarily with the outer portion (specification, page 4 lines 22-23) or could be formed out of a separate piece of material (specification, page 5, lines 1-3). The base 26 is described as being substantially flat or as having a flat portion, and if formed from a separate piece of material, the base may be continuous or it may have apertures therein, (specification, page 5, lines 6-8). The base is described as having any desired shape, and the two disclosed embodiments differ in that in the Figure 1-2 embodiment, the base is "essentially square" with rounded corners, while in the Figure 3-4 embodiment, the base is circular (specification page 5, lines 8-14). In both embodiments that are specifically disclosed, base 26 is described as being a brim 27 that extends radially outwardly from where the outer portion 24 joins base 26 and provides rigidity and support for base 26. However, the brim 27 is disclosed as "not necessary", and may be eliminated altogether, (specification, page 6 lines 3--15), resulting in base 26 being the lowermost edge of outer portion 24. Brim 27, if used, may be extended as far as necessary, (specification, page 6 lines 3--15).

As noted in the Decision treating the original petition, the examiner first objected to the drawings as originally filed in the examiner's first Office action. The drawings were objected to as failing to illustrate a base having apertures and as failing to illustrate a separately formed base attached to the outer portion (paper No. 3, page 2, first two paragraphs). The basis for the objection was 37 CFR 1.83 which requires, *inter alia*, that the drawing in a nonprovisional application show every feature of the invention specified in the claims. Original claim 8 calls for a base that has apertures, while original claim 10 recites the base as being an element that is separate from, and attached to, an outer portion of the support. In response to the examiner's objection, petitioner filed a proposed drawing correction (part of paper No. 4). However, the examiner refused entry, holding that the correction as proposed contained new matter (paper No. 5, page 2, paragraph 1). The examiner again objected to the drawings under 37 CFR 1.83 and required

corrected drawings (paper No. 5, page 2, paragraphs 2-3).

In response to paper No. 5, petitioners submitted the proposed drawing corrections as part of paper No. 6. The examiner held those proposed corrections, which differ from the corrections proposed as part of paper No. 4, to be prohibited new matter, and declined to enter them.

After considering the record and the arguments presented in the original petition, it was held that the proposed drawings as submitted with paper No. 6 to contain new matter because the illustrated base 26 as comprising a sheet of material **that extends radially inwardly of outer portion 24, and completely beneath inner portion 21 and rounded bottom 22 of the support.**

The arguments presented in the renewed petition do not address the basis that supported the holding in the Decision that dismissed the original petition. Petitioner is arguing that the base 26, by original disclosure, could be a separate element rather than an element integrally formed with outer portion 24. And in this, petitioner is correct in that page 5, lines 1-3 of the original specification so states. However, as noted in the Decision dated November 14, 2003, nothing in original Figures 1-4 shows base 26, or any element other than members 21 and 22 (which are not the base in question), extending radially inwardly of the outer portion 24, let alone beneath inner portion 21 and rounded bottom 22, in the manner illustrated by proposed Figure 1a filed as part of paper No. 6. Indeed, the specification describes base 26 as being the sole necessary "base" (specification, page 6, lines 3-15), or as including brim 27 which extends radially outwardly of the outer portion 24. However, proposed Figure 1a shows what can only be taken as a sheet of material extending completely beneath the support, because the proposed figure is a sectional view, and the element labeled 26 extends beneath the inner portion 21, rounded bottom 22 and outer support member 24 radially inwardly of these elements. That brim 27 is described as being "essentially square" or, in a second embodiment, as being "circular", does not imply that the brim 27 (or any other element that might comprise base 26) extends radially inwardly of elements 21, 22 and 24. Clearly, such an interpretation is not the only necessary and reasonable interpretation of petitioner's disclosure. It is equally reasonable, from petitioner's explicit disclosure as a whole, to conclude that base disclosed by petitioner is a radially outwardly extending "brim" that extends outside of outer portion 24 for any desired length, as in United States Patent 4,726,553 (cited in the present record) which shows a member 32 that is not a complete sheet that extends beneath the supported receptacle but is merely a radially outwardly extending flange, notwithstanding the description in USP 4,726,553 of member 52 as being "square." Alternatively, it is clear that petitioner's base 26 may simply consist of the bottom edge of outer portion 24 in a manner similar to the lowermost portion of element 1 of United States Patent 1,651,346 (cited in the present record). But there is absolutely no reason for one of ordinary skill in the art reading petitioner's disclosure to conclude that the base originally disclosed by petitioner is of the form illustrated in proposed Figure 1a that was filed as part of paper No. 6, wherein element 27 extends beneath members 21 and 22 completely across petitioner's support.

While careful consideration has been given to the arguments presented in the renewed petition, those arguments are simply not persuasive, for the reasons that are, again, presented above.

This application is being returned to storage awaiting the filing of a reply brief, if any. The application will ultimately be forwarded to the Board of Patent Appeals and Interferences in due course.

PETITION DISMISSED.

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

Robert W. Becker and Associates
707 Highway 66 East
Suite B
Tijeras, NM 87059

The opinion in support of the decision being entered today was ***not*** written for publication is ***not*** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

MAR 3 1 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte Dr. Melvin Hatch

Appeal No. 2005-0941
Application 09/941029

DECISION ON PETITION

This is in response to the petition filed August 23, 2004, requesting that the above identified application be granted Special Status under M.P.E.P. Section 708.02 IV.

The petition has been considered and found to comply with all the requirements set forth under M.P.E.P. Section 708.02 IV. Accordingly, the petition is granted.

The above identified application will be assigned on brief in due course.

PETITION GRANTED

By: Gary V. Harkcom

Gary V. Harkcom
Acting Chief Administrative Patent Judge
BOARD OF PATENT APPEALS
AND INTERFERENCES
571-272-9797

Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, New Mexico 87059

GVH:dms

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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Paper No. 8

MAIL

JUL 1 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

CHARLES E. SHEMWELL
4880 STEVENS CREEK BLVD., STE. 201
SAN JOSE, CA 95129

In re Application of :
Chang et al. :
Application No. 09/941,079 :
Filed: August 28, 2001 :
For: CLOCK DATA RECOVERY WITH SELECTABLE PHASE CONTROL :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on May 27, 2003.

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

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

Charles E. Shemwell and all attorneys associated with Customer No. 30,554 are removed from the record.

Since the correspondence address is not affected by this withdrawal, all future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 19 2007

OFFICE OF PETITIONS

OPTV/MOFO
C/O Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
Mclean, VA 22102

In re Application of :

Thomas Huber et al. :
Application No. 09/941,148 : DECISION ON PETITION
Filed: August 27, 2001 : TO WITHDRAW
Attorney Docket No. 577172000400 : 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 & 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 Kesser on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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 April 25, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Thomas Huber**
8678 E. Pawnee Road
Parker, CO 80134

cc: **Marc Kaufman, Esq.**
Nixon Peabody LLP
401 9th Street, N.W.
Suite 900
Washington D.C. 20004

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
09/941,148	08/27/2001	Thomas Huber	577172000400

CONFIRMATION NO. 4598

OC000000024893341

43997
OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

Date Mailed: 07/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

- 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.

Terri Williams

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
WASHINGTON, D.C. 20231
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Paper No. 9

TIMOTHY H. VAN DYKE
VAN DYKE & ASSOCIATES, P.A.
1630 HILLCREST STREET
ORLANDO, FL 32803

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JUN 2 0 2002

OFFICE OF PETITIONS

In re Application of :
John R. Bianchi :
Application No. 09/941,154 : LETTER
Filed: August 27, 2001 :
Attorney Docket No. RTI-112RIA :

This is in response to the paper filed April 15, 2002 under 37 CFR 1.27(c) seeking status as a small entity.

The Statement Claiming Small Entity Status of April 15, 2002 has been made of record and small entity status has been accorded.

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

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Paper No. 8

VAN DYKE & ASSOCIATES, P.A.
1630 HILLCREST STREET
ORLANDO, FL 32803

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JUN 25 2002

OFFICE OF PETITIONS

In re Application of
Bianchi et al.
Application No.09/941,154
Filed: August 27, 2001
Attorney Docket No. RTI-112RIA

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 26, 2002 (certificate of mail date March 12, 2002).

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

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

The above-identified application was filed on August 27, 2001, without an executed oath or declaration. Accordingly, on December 12, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, the basic filing fee, additional claim fees, an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on March 26, 2002, applicant filed a $130.00 surcharge, the present petition and a partially executed declaration. To make the petition timely a one (1) month request for extension of time was submitted. In support of the petition, rule 47 applicant has included a copy of correspondence sent to Diane Carter, the legal representative of deceased inventor Kevin Carter via her legal counsel Larry Ciesla.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1) and (2).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. The petition indicates "relevant" documents were sent to Ms. Carter. The copy of correspondence faxed to Ms. Carter's counsel indicates only the declaration/power of

attorney and assignment forms were sent to Ms. Carter. There is no indication application papers were submitted to Ms. Carter Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). In this case rule 47 applicant must submit a copy of the application papers to deceased inventor's legal representative, Diane Carter.

As to item (2), the declaration submitted does not comply with 37 CFR 1.64(b). Where an oath or declaration is being signed on behalf of a deceased inventor, the oath or declaration shall state the person is a legal representative and provide the name, citizenship, residence and mailing address of the legal representative.

Thus, on renewed petition, applicant must establish that the entire application package, including specification, claims and drawings, was presented to deceased inventor's legal representative and the legal representative refused to execute the documents. An oath or declaration with deceased inventor's legal representative's information must be included on the declaration.

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

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

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

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

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Regeneration Technologies, Inc.
McAndrews, Held & Malloy
500 West Madison Street
34th Floor
Chicago, IL 60661

In re Application of Bianchi et al.
Appl. No.: 09/941,154
Filed: August 27, 2001
Attorney Docket Number: RTI-112RIA
For: ASSEMBLED IMPLANT, INCLUDING MIXED-COMPOSITION SEGMENT

7/3/08

DECISION ON PETITION UNDER 37 CFR 1.59

This is a renewed decision on the petition under 37 CFR 1.59(b), filed June 2, 2008, to expunge information from the above identified application.

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

Petitioners have requested that the copending applications identified in the amendment and response filed June 2, 2008 be expunged from the record. Petitioners have stated that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information may be removed from the official file if all conditions are met. Applicants are reminded that in the case of pending U.S. applications, that their status may change from unpublished to published at some future time. Therefore, an updated petition may be necessary should the material be otherwise made public. The information has been closed from public view for the remainder of prosecution.

Decision held in ABEYANCE.

Any questions regarding this petition decision should be directed to Josie Ballato, Technology Center 3700 Special Programs Examiner at 571-272-3567.

for

Frederick R. Schmidt, Director
Technology Center 3700
Mechanical Engineering, Manufacturing, Products and Designs

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OFFICE OF PETITIONS

In re Application of :
William R. Wheeler et al :
Application No. 09/941,158 : ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. 10559-596001/P12880 :

This is a decision on the petition filed June 3, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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]

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.

[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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Wan Laymon

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

cc: FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of
William R. Wheeler et al
Application No. 09/941,158
Filed: August 28, 2001
Attorney Docket No. 10559-596001/P12880

: CORRECTED DECISION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition filed July 28, 2004 and resubmitted on June 3, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee. The decision mailed June 6, 2005 is hereby vacated.

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 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]

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 Wan Laymon at (571) 272-3220.

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

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 filed June 3, 2005.

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

cc: FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
William R. Wheeler et al :
Application No. 09/941,158 :
Filed: August 28, 2001 :
Attorney Docket No. 10559-596001 / P12880

This is a decision on the petition, filed November 4, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

Motorola, Inc.
Intellectual Property Section
Law Dept.
8000 West Sunrise Blvd.
Ft Lauderdale, FL 33322

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OFFICE OF PETITIONS

In re Application of :
Georgi Bit-Babik, et al. :
Application No. 09/941,183 : ON PETITION
Filed: August 27, 2001 :
Attorney Docket No. CM03482J :

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 2002, to revive the above-identified application.

The petition is **GRANTED**.

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

In view of the general authorization to charge any additional fees due, the $130 surcharge as set forth in 37 CFR 1.16(l) for the late filing of the declaration will be charged to Deposit Account No. 50-0757.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Sherry Brinkley at (703) 305-9220.

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

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Carr & Ferrell, LLP
2225 E. Bayshore Road
Second Floor
Palo Alto, CA 94303

In re Application of:
Kwoktung B. LO
Application No. 09/941,358
Filed: August 28, 2001
For: CUSTOMER PREMISES EQUIPMENT AUTOCONFIGURATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed March 17, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on August 8, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Blakely Sokoloff Taylor & Zafman, LLP as the attorney(s) of record of the instant application. The Power of Attorney of August 8, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Blakely Sokoloff Taylor & Zafman, LLP.

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

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

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

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PATENT COUNSEL, TRW INC.
S & E LAW DEPT.
ONE SPACE PARK, BLDG. E2/6051
REDONDO BEACH, CA 90278

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NOV 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Mark Kintis :
Application No. 09/941,371 : ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. 12-1201 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 17, 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 February 18, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 17, 2004 is accepted as having been unintentionally delay.

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

There is no indication that the person signing the 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.

This matter is being referred to Technology Center AU 2634.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: KATTEN MUCHIN ROSENMAN
525 W. MONROE STREET
CHICAGO, IL 60661-3693

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)
6727458	2004-04-27	09941389	2001-08-28	GSIL 0180 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

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David R. Syrowik/	Date (YYYY-MM-DD)	2008-06-26
Name	David R. Syrowik	Registration Number	27956

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. 6727458
Issue Date: April 27,2004
Application No. 09941389
Filed: August 28,2001
Attorney Docket No. GSIL 0180 PUS

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

This is a decision on the electronic petition, filed June 26,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 26,2008 . 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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#12

JOHN WURST, ESQ.
ALLIANCE PHARMACEUTICAL CORP
6175 LUSK BOULEVARD
SAN DIEGO, CA 92121

In re Application of	:
Leo A. Trevina et al	:
Serial No.: 09/941,395	: PETITION DECISION
Filed: August 28, 2001	:
Attorney Docket No.: ALLIA.62CP2C2	:

This is in response to the petition under 37 CFR 1.181, filed May 3, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on August 27, 2003, setting a one month shortened statutory period for reply. On April 20, 2004, the Office mailed a Notice of Abandonment to applicants for failure to file a reply to the Office action. Applicants state that a reply was attempted to be filed on February 27, 2004, with an executed Certificate of Mailing and a request and fee for a five month extension of time, and provide a copy thereof. For unknown reasons the Postal Service retuned the original submission as undeliverable as evidenced by the envelope submitted in evidence. In view of the aattempted timely reply, the Notice of Abandonment was mailed in error and is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

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

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

Bruce M. Kisliuk
Director, Technology Center 1600

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

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In re Application of	:	
Takatori et. al.	:	DECISION ON REQUEST
Application No. 09/941,399	:	TO WITHDRAW FROM
Filed: August 28, 2001	:	RECORD
Attorney Docket No. 080974	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on February 16, 2006.

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

A review of the file record indicates that the power of attorney to all the attorneys or agents of record and the attorneys/agents associated with Customer No. 20350 have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

Further, it is noted that the Office action mailed December 2, 2005, was mailed to an incorrect address. Therefore, this application file is being referred to Technology Center Art Unit 2614, to restart the period for reply to the Office action mailed December 2, 2005. A courtesy copy of the Office action is being mailed to the new correspondence address of record.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

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

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PATENT COUNSEL, TRW INC.
S & E LAW DEPT.
ONE SPACE PARK, BLDG. E2/6051
REDONDO BEACH, CA 90278

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OFFICE OF PETITIONS

In re Application of :
Kintis : DECISION ON PETITION
Application No. 09/941,403 :
Filed: August 28, 2001 :
Docket No.: 12-1212 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 24, 2005 for failure to timely reply to the non-final Office action mailed November 23, 2004. The Notice set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed July 12, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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

This application will be forwarded to Technology Center 2600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY DEPARTMENT
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of :
James R. Hornsby et al :
Application No. 09/941,473 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. 6871.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, the drawings submitted on July 14, 2004 were objected to by the draftsperson. A Notices of Draftsperson's Patent Drawing Review (PTO-948) are attached. Accordingly, this application cannot be revived until corrected formal drawings have been submitted.

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

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

By hand: Customer Window located at:

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

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

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

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

Attachment: PTOL-85(b)

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

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OFFICE OF PETITIONS

In re Application of :
James R. Hornsby et al :
Application No. 09/941,473 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. 6871.01 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The drawings filed on August 16, 2004 have been approved by the draftsperson. A copy of the Form PTO-948 is enclosed.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney and change in correspondence address documentation must be submitted. 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. Therefore, the Change of Correspondence filed on August 16, 2004 has not been entered.

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

Enclosure: PTO-948

cc: LAW OFFICE OF RICHARD B. KLAR
875 AVENUE OF THE AMERICAS, STE 2301
NEW YORK, NY 10001

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C. James Bushman
Browning Bushman P.C.
5718 Westhelmer, Suite 1800
Houston, TX 77057-5771

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SEP 1 4 2005

Director's Office
Group 3700

In re Application of
WILLIAMS ET AL.
Application No.: 09/941,475
Filed: August 29, 2001

DECISION ON PETITION

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed October 2, 2002. In view of the statements in the letter received October 15, 2002 and resubmitted April 26, 2005, the submission is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is granted.

A review of the file history indicates that applicant filed a non-publication request with the filing of the application on August 29, 2001 certifying that the invention disclosed in this application has not and will not be the subject matter of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing of the application. MPEP 1122 states, in part:

"A nonpublication request is not appropriate unless the person who is signing the nonpublication request has made an actual inquiry consistent with the requirements of 37 CFR 10.18(b) to determine that:

(A) The application under 35 U.S.C. 111(a) has not been the subject of a foreign or international application filed in another country, or under a multilateral international agreement, that requires publication of applications at eighteen months after filing (e.g., a counterpart PCT application); and

(B) The applicant 's intent at the time the nonpublication request is being filed is that the application under 35 U.S.C. 111(a) will not be the subject of a foreign or international application filed in another country, or under a multilateral international agreement, that requires publication of applications at eighteen months after filing.

Only when both conditions are satisfied, can applicants file a nonpublication request under 37 CFR 1.213(a)...A nonpublication request is also not appropriate if the applicant has not yet made a decision whether to file a counterpart application in a foreign country, or under a multilateral international agreement, that requires publication of applications at eighteen months after filing. A certification under 37 CFR 1.213(a)(3) cannot be made based on a lack of knowledge of the applicant's plans concerning the filing of any counterpart application that would be subject to eighteen-month publication or the applicant's past practices or tendencies with respect to the filing of foreign counterpart applications...The applicant must have an affirmative intent not to file a counterpart application, and not just the absence of any intent or plan concerning the filing of any counterpart application that would be subject to eighteen-month publication. A nonpublication request is only appropriate if the applicant's intent at the time the nonpublication request is being filed is not to file a counterpart foreign or international application that would be subject to eighteen-month publication."

The examiner held the application abandoned upon the discovery of a subsequently filed PCT application (PCT US02/18047, filed June 2, 2002) that contains the same subject matter as the present application. At the time the case was held abandoned, the file history did not contain a request to rescind the non-publication request or the notice of foreign or international filing that is required within 45 days of the filing of PCT application. Applicant/Petitioner has supplied a copy of the request to rescind the non-publication request and the notice of foreign or international filing and a copy of the postcard receipt dated June 14, 2002 establishing that the papers were timely filed in the office within 45 days of the filing of the PCT application.

In view of the above, the Notice of Abandonment mailed October 2, 2002 is in error and is hereby vacated. The holding of abandonment is withdrawn. The application will be returned to an active status and forwarded to the examiner for an action on the merits.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE, CA 95131

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APR 17 2008

OFFICE OF PETITIONS

In re Application of :
Jens ROEVER :
Application No. 09/941,478 : DECISION ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. US018133 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 10, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2189 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April Wise
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

AKIN, GUMP, STRAUSS, HAUER & FELD, LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103

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JUN 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Reem Safadi, et al. :
Application No. 09/941,512 : ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. 10622-9US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner in reply to the Notice To File Corrected Application Papers mailed October 1, 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 application became abandoned on December 2, 2001.

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

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

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

David R. McKinney
THORPE NORTH & WESTERN, L.L.P.
P.O. Box 1219
Sandy, UT 84091-1219

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Gates et al. :
Application No. 09/941513 : DECISION GRANTING PETITION
Filed: August 28, 2001 :
Attorney Docket No. T9864 :
Title of Invention: OFFSET HOLDING :
DEVICE :

This is a decision on the petition filed May 6, 2003, requesting that the above-identified application be accorded a filing date of August 28, 2001.

On August 28, 2001, applicant deposited the above-identified application. On April 11, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," stating that the application had not been accorded a filing date as the application was deposited without drawings and that the filing date would be the date of receipt of the items.

In response, on May 16, 2003, applicant filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of two sheets of drawings on August 28, 2001. Additionally, applicant submitted a copy of two sheets of drawings, containing Figures 1-6.

Upon review of the record, Figures 1-6 deposited on August 21, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on August 21, 2001, included two drawing sheets (Figures 1-6), which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including two drawing sheets (Figures 1-6) was complete on filing and will be granted a filing date of August 28, 2001.

Accordingly, the petition is granted. Deposit account no. 20-0100 will be credited with the $130.00 petition fee.

The application file is being forwarded to the Office of Initial Patent Examination for correction of the filing date to August 28, 2001, and the mailing of a corrected filing receipt. The Office records should indicate that two sheets of drawings (Figure 1-6) were submitted on filing.

Any inquiries related to this decision should be directed to the Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.9

HENRY MICHAEL HADDEN
7493 WEST QUAIL AVENUE
GLENDALE, AZ 85308

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SEP 1 0 2003

OFFICE OF PETITIONS

In re Application of
Hadden et al.
Application No. 09/941,525
Filed: August 29, 2001
Title of Invention: COATED WIRE CLOTH FABRIC

DECISION ON PETITION

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

This petition is hereby **Dismissed**.

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

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed October 9, 2002. The non-final Office Action set a one (1) month shortened statutory period for reply. A reply was filed on April 8, 2003 but it was filed without the required extension of time fee. Accordingly, this application became abandoned on November 10, 2002. A Notice of Abandonment was mailed on June 2, 2003.

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

The instant petition lacks item (1). The Office is in receipt of the response to the October 9, 2002 Office Action. However, petitioner must obtain the signature of co-inventor Kirk Holton Autio, on the petition pursuant to 37 CFR 1.33 (2)(b)(3) which requires the signature of all applicants where there is no registered practitioner or an

assignee of the entire invention.

A five (5) month extension of time was requested with the instant petition. However, pursuant to 37 CFR 1.136 (a), an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's six (6) month statutory period expired on April 9, 2003. Petitioner is ineligible for any extensions of time, nor is an extension of time fee required to revive the application. Accordingly, a treasury check in the amount of $985.00 will be forwarded to petitioner for fees paid to acquire an extension of time.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
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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Paper No. 12

HENRY MICHAEL HADDEN
7493 WEST QUAIL AVENUE
GLENDALE, AZ 85308

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NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of
Hadden et al.
Application No. 09/941,525
Filed: August 29, 2001
Title of Invention: COATED WIRE CLOTH FABRIC

DECISION ON PETITION

BEST AVAILABLE COPY

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 3, 2003, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed October 9, 2002. The non-final Office Action set a one (1) month shortened statutory period for reply. A reply was filed on April 8, 2003 but it was filed without the required extension of time fee. Accordingly, this application became abandoned on November 10, 2002. A Notice of Abandonment was mailed on July 2, 2003. A petition under 37 CFR 1.137(b) was dismissed on November 3, 2003.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office hereby acknowledges the receipt of the Response submitted on April 8, 2003.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
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HENRY MICHAEL HADDEN
7493 WEST QUAIL AVENUE
GLENDALE, AZ 85308

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of

Hadden and Autio

Application No. 09/941,525

Filed: August 29, 2001

Attorney Docket No. 431177.80015

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 1, 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 December 9, 2003, which set a shortened statutory period for reply of three (3) months from its mailing date. Petitioner obtained a three-month extension of time, but no reply was received within the statutory period. The application became abandoned on June 10, 2004. A Notice of Abandonment was mailed on July 1, 2004.

The amendment filed June 1, 2005, is noted and made of record.

The request for an extension of time within the third month filed with the petition is noted, however it is not necessary and cannot be granted as the request was made outside the maximum statutory period for reply.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant

petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application is being directed to Technology Center 3700, GAU 3765 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Jaye G. Heybel
555 St. Charles Drive, Suite 107
Thousand Oaks, CA 91360

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
MURANAKA, TSUNEYOSHI
Application Serial No.: 09/941,610
Filed: August 30, 2001
For: **SYSTEM AND METHOD FOR DATA COMMUNICATION**

DECISION
ON PETITION

This is a decision on the petition filed May 20, 2005 under 37 CFR § 1.181 to compel reconsideration by the Examiner of his comments of reasons for allowance.

Petitioner urges that "there appears to be no support in independent claims 1 and 14 for the specific language used by the Examiner in his statement of reasons for allowance beginning in part 2 of page 2, line 14 (thereof) through page 3, line 7." (Emphasis Petitioner's)

In accordance with MPEP § 1302.14 "(t)he examiner's statement of reasons for allowance is the personal opinion of the examiner as to why the claims are allowable. The examiner's statement should not create an *estoppel*. Only applicant's statements should create an *estoppel*. ...Any inferences or presumption are to be determine on a case-by-case basis by a court reviewing the patent, the USPTO examining the patent in a reissue application or a reexamination proceeding, the Board of Patent Appeals and Interferences reviewing the patent in an interference proceeding, etc. Applicant may set forth his or her position if he or she disagrees with the examiner's reasons for allowance." Applicant has set forth his or her position in the instant petition which is of record.

Accordingly, the petition is **DISMISSED**.

The application will be forwarded to the Office of Publications for appropriate processing into a patent.

Mark Powell, Director
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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Paper No. 13

CROMWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of
Masahiko Amano, et al.
Application No. 09/941,725
Filed: August 30, 2001
Attorney Docket No. 381AS/50354

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 13, 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 January 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.

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

After the file is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2838 for further processing of the request for continued examination under 37 CFR 1.114 filed Februry 6, 2004.

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

---

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

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INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of
Masahiko Amano, et al.
Application No. 09/941,725
Filed: August 30, 2001
Attorney Docket No. 381AS/50354

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 13, 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 January 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.

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

After the file is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2838 for further processing of the request for continued examination under 37 CFR 1.114 filed Februry 6, 2004.

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Takeo Tsukamoto :
Application No. 09/941,780 :
Filed: August 30, 2001 :
Attorney Docket No.: 35.C15727 :

ON PETITION

This is a decision on the petition, filed April 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 17, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated November 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2828 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

In re Application of	:	
IWAKI, et al.	:	
Application No. 09/941,782	:	DECISION GRANTING PETITION
Filed: August 30, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 35.C15730	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 22, 2006, 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 16, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Joachim Kloss
Application No. 09/941,789
Filed: August 30, 2001
Attorney Docket No. 037/50028

This is a decision on the petition, filed May 28, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 1, 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 3747 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/26/06

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction on Patent No.: 6999985

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:

KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2193
Art Unit

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Jeffrey S. Whittle
Bracewell & Patterson, L.L.P.
P.O. Box 61389
Houston, TX 77208-1389

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OFFICE OF PETITIONS

In re Application of :

Manmeet Singh et al. :
Application No. 09/941,822 : DECISION ON PETITION
Filed: August 29, 2001 : TO WITHDRAW
Attorney Docket No. 2066JB.044237 : 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 2, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorney(s) and/or agent(s) cannot be withdrawn using a Customer Number because the practitioners were not appointed by Customer Number and because no reasons for withdrawal have been provided.

The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Bankstream LTD.
8750 North Central Expressway
Suite 600
Dallas, TX 75231

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Attn: JEFFREY S. WHITTLE
BRACEWELL & PATTERSON, L.L.P.
P.O. Box 61389
Houston TX 77208-1389

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OFFICE OF PETITIONS

In re Application of :

Manmeet Singh et al. :
Application No. 09/941,822 :
Filed: August 29, 2001 :
Attorney Docket No. 2066JB.044237 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 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, ***responsibility for this application has been transferred to a different law firm***, do not meet any 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 Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mr. W. Matt Carver**
Crady, Jewett & McCulley, LLP
2727 Allen Parkway, Suite 1700
Houston, TX 77019

#3

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

July 2, 2003

Eugene Lieberstein
2151 Long Ridge RD
Stamford, CT 06903

In re application of:
Shoher et al DECISION ON PETITION
Serial No.: 09/941,825
Filed: August 29, 200l
For: ADAPTATION DEVICE AND METHOD

This is a decision on the petition received on April 7, 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 October 1, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned December 4, 2001.

On April 7, 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 October 1, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice of Missing Parts mailed October 1, 200l.

The petition is hereby Granted.

A new Notice to File Missing Parts is enclosed with this Decision setting forth a new response period of two months from the date of the notice.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P O BOX 2550
SALT LAKE CITY, UT 84110

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of :
Robert L. Canella :
Application No. 09/941,853 : DECISION GRANTING PETITION
Filed: August 29, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2269-4322US :
MUEI-0542.00/US)

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2826 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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MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Robert L. Canella :
Application No. 09/941,853 : DECISION GRANTING PETITION
Filed: August 29, 2001 : UNDER 37 CFR 1.313(c)(2)
Atty Dkt No. 4322US (MUEI-0542.00/US) :

This is a decision on the petition, filed March 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 4, 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 2826 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).*

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-4-06

TO SPE OF : ART UNIT 2132

SUBJECT : Request for Certificate of Correction for Appl. No.: 2134 Patent No.: 6999589

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

E. Times
Certificates of Correction Branch
703-308-9390 ext. _____

Are these the Correct drawings.

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: Yes, These are the correct drawings

GILBERTO BARRON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE 2132 — 2132 **Art Unit**

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

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Howard W. Lutnick et al :
Application No. 09/941,901 : DECISION GRANTING PETITION
Filed: August 28, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. CF-31 :

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

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on August 21, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 3627 for examination in due course.

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

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FEB 23 2001

OFFICE OF PETITIONS
A/C PATENTS

Grant R. Clayton
Clayton Howarth & Cannon, PC
P.O. Box 1909
Sandy, UT 84091-1909

In re Application of
Bird and Chen
Application No. 09/374,336
Filed: August 13, 1999
Attorney Docket No. T6588.A
For: FLEXIBLE FLASHLIGHT EXTENSION

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

This is in response to the renewed petition under 37 CFR 1.47(a) filed December 11, 2000.

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 or cannot be located.

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

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

The file is beign 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

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Clayton, Howarth & Cannon, P.C.

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RATNER AND PRESTIA
SUITE 301,
ONE WESTLAKES, BERWYN
P.O. BOX 980
VALLEY FORGE, PA 19482-0980

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OFFICE OF PETITIONS

In re Application of :
Akihiro Tatsuta, et al. :
Application No. 09/941,979 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No.: MTS-3272US :

This is a decision on the petition, filed June 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 11, 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 2614 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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JAN 30 2006

LESLIE A. MOOI
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025

In re Application of :
Avi Ashkenazi et al : DECISION ON PETITION
Serial No.: 09/941,992 :
Filed: 21 August 2001 :
Attorney Docket No.: 39780-2730P1C1

:

This letter is in response to the Petition under 37 C.F.R. 1.181, filed 12 December 2005 requesting (1) that the rejections containing the six new references which have been used by the examiner in the Examiner's Answer be designated as new grounds of rejection; (2) that the examiner provide a corrected Examiner's Answer which identifies the rejections as new grounds of rejection; and (3) that prosecution be reopened because of these new grounds of rejection.

(Applicants should note that in their petition they have indicated this application as that of "Kevin P. Baker et al." In all previous correspondence with the Office, applicants have identified the application as that of Avi Ashkenazi et al, the first named inventor. This Decision on Petition continues to correctly identify the application as that of Avi Ashkenazi et al.)

BACKGROUND

On 07 July 2004 applicants, following issuance of a Final Office action, filed a Request for Continued Examination. The examiner reopened prosecution and mailed to applicants a first action FINAL rejection on 14 September 2004. Applicants filed a Notice of Appeal on 12 January 2005 and an Appeal Brief on 27 July 2005. The examiner mailed to applicants an Examiner's Answer on 12 October 2005. Applicants filed a Reply Brief on 12 December 2005 along with a request for an Oral Hearing and this petition.

DISCUSSION

In the Examiner's Answer the examiner relied extensively on six new references in order to support the lack of utility and lack of enablement rejections set forth in the Final Office action. These new references are:

Hittelman, 2001, Ann NY Acad. Sci. 952: 1- 12.
LaBaer, 2003, Nature Biotechnology 21: 976 - 977.
Chen et al., 2002, Molecular and Cellular Proteomics 1 : 304 - 313.
Gygi et al., 1999, Mol. Cell. Biol. 19 : 1720 - 1730.
Lian et al., 2001, Blood 98 : 513 - 524.
Fessler et al., 2002, J. Biol. Chem. 277 : 31291 - 31302.

The statutory basis of the rejections (35 U.S.C. 101 and 112, first paragraph) in the Examiner's Answer did not change from the FINAL office action mailed to applicants on 14 September 2004. However, it is clear that the examiner used the additional six new references to reinforce these rejections and rebut more thoroughly applicants' arguments. While the applicants have responded to these new arguments and new references raised by the examiner in the Examiner's Answer in their Reply Brief, they argue that they have been placed at a disadvantage because they are limited in their ability to present substantive evidence of their own in response to these new references and arguments without reopening of prosecution being granted.

Applicants' points of argument are well taken and will be accommodated accordingly

DECISION

For the above reasons, the petition under 37 C.F.R. 1.181 requesting (1) that the rejections containing the six new references which have been used in the Examiner's Answer be designated as new grounds of rejection; (2) that the Examiner provide a corrected Examiner's Answer which identifies the rejections as new grounds of rejections; and (3) that the FINALITY be withdrawn and that prosecution be reopened because of these new grounds of rejection are **GRANTED-IN-PART.**

Applicants' first request that the rejections in the Examiner's Answer be designated "new grounds of rejection" is **GRANTED**.

Applicants' second request has been effectively granted by this Decision on Petition designating the rejections in the Examiner's Answer to be "new grounds of rejection." The further request for the corrected Examiner's Answer is deemed moot in view of the Decision and therefore, **DISMISSED**.

Applicants' third request to have the FINALITY of the application withdrawn and prosecution reopened is **GRANTED** as this is a proper request under the Rules of Prosecution when a new ground of rejection is advanced in an Examiner's Answer. (Alternatively, applicants may rely solely on their Reply Brief and proceed to the Board.)

In view of applicants' expressed limited ability to present new evidence, as noted above, applicants are given TWO MONTHS from the mailing date of this Decision within which to submit any additional arguments, exhibits, affidavits or other evidence which they consider necessary in order to rebut the examiner's new grounds of rejection set forth in the Examiner's Answer. Failure to make any submission will be taken as applicants' agreement to rely solely on the already submitted Reply Brief

This application is being returned to the examiner for consideration of the Reply Brief which will be treated as a reply to a new "Non-Final" rejection set forth in the Examiner's Answer and further action not inconsistent with this decision.

Applicants have been charged a fee of $130.00 for this petition. However, since there should be no charge for this petition, this $130.00 will be credited to applicants' Deposit Account No. 08-1641, as directed.

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

George C. Elliott
Director, Technology Center 1600

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Paper No. 6

U.S. Philips Corporation
580 White Plains Road
Tarrytown NY 10591

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MAY 2 4 2002

OFFICE OF PETITIONS

In re Application of
Gobert, et al.
Application No. 09/942,017
Filed:August 29, 2001
Attorney Docket No. PHFR 000090

DECISION ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Communication" filed February 25, 2002. The petition will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **granted**.

This application was held abandoned on December 10, 2001, after no reply was received to the Notice to File Missing Parts of Nonprovisional Application first mailed October 9, 2001. The notice set forth an extendable period for reply of two months from its mailing date and required the submission of a proper oath or declaration and the payment of surcharge for late filing of the same. On January 25, 2002, the Office mailed a "Cover Letter for Resending Correspondence" with the enclosed correspondence being the aforementioned notice. The letter of January 25, 2002, indicated that the period of time set forth for reply to the notice continued to run from October 9, 2001. The instant petition was then filed on February 25, 2002, in which petitioner maintains that the notice of October 9, 2001, was never received and provides manual and computerized docketing records as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has meet the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

Petitioner appropriately responded to the Notice to File Missing Parts of Nonprovisional Application by filing a declaration complying with 37 CFR 1.63 and remitting the surcharge.

Certificate
MAY 2 8 2002
of Correction
H-A.

The application file is being forwarded to Technology Center 2100 for further processing.

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

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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MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE,
SUITE 500
SAN DIEGO, CA 92130

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Raitano et al.	:	DECISION ON
Application No. 09/942,052	:	PETITION
Filed: August 28, 2001	:	
Atty Docket No. 511582002800	:	
	:	

This is a decision on the paper titled "PETITION UNDER RULE 1.47(a)," filed March 17, 2005, which is being treated as a § 1.183 waiver of § 1.131's requirement that all of the inventors sign the declaration of prior inventorship.

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

The above-identified application was filed on August 28, 2001. On April 26, 2002, applicants supplied a 37 CFR 1.63 declaration signed by all of the inventors. A final Office action was mailed on September 17, 2004. This office action set a shortened statutory period for reply of three months, with extensions of time obtainable under 37 CFR 1.136(a).

In response, on March 17, 2005, applicants submitted a response, including the instant petition and a declaration under 37 CFR 1.131 (as well as, an RCE and an amendment). This reply was made timely by an accompanying petition and fee for extension of time for response within the third month. The 37 CFR 1.131 declaration was signed by all of the joint inventors, except inventor Faris. Applicants have filed the instant petition to

have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by joint inventor Faris. Petitioner asserts that inventor Faris has refused to execute the declaration.

37 CFR 1.131 states, in pertinent part:

> When 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.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that joint inventor Faris sign the § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, applicants have set forth the steps taken to obtain joint inventor Faris' signature on the § 1.131 declaration. Applicants have shown that a bona fide effort was made to present the § 1.131 declaration and supporting documentation to inventor Faris for signature, to reach inventor Faris by telephone to discuss her failure to execute the declaration, and that by her conduct, inventor Faris has refused to execute the declaration. The declaration presented is signed by joint inventors Raitano, Hubert, Afar, Ge, Challita-Eid and Jakobovits. Under the circumstances, it is concluded that

petitioner has demonstrated that this is an extraordinary situation, warranting waiver of the rules.

The petition is granted to the extent that 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. This is not a decision on the merits of the declaration.

The petition fee under 37 CFR 1.17(f) of $400 required for consideration of this petition under § 1.183 has been charged to Deposit Account No. 03-1952, as authorized.

The application file is being forwarded to Technology Center 1642 for consideration on the merits of the reply and the 37 CFR 1.131 declaration, filed March 17, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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NIKOLAI & MERSEREAU PA
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Bobby Hu :DECISION GRANTING PETITION
Application No. 09/942,061 : UNDER 37 CFR 1.137(b)
Filed: August 29, 2001 :
Attorney Docket No. CFP-1080CA :

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**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This application is being forwarded to Technology Center AU 3723 for processing the RCE filed August 30, 2004 and for taking such further action as the nature of the case requires.

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

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Paper No. 8

HEWLETT PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80528-9599

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JUN 25 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Miquel Boleda et al.
Application No. 09/942,070
Filed: August 28, 2001
Attorney Docket Number: 60011821Z149

This is a decision on the petition under 37 CFR 1.137(b),[1] filed June 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 4, 2001, for failure to timely reply to the Notice to File Missing Parts mailed on October 2, 2001, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed November 25, 2003.

The reply in the form of an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116, substitute drawings in compliance with 37 CFR 1.84, the surcharge for late filing and all other requirements of 37 CFR 1.137(b) have been properly remitted.

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

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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©)).

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Paper No. 4

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JUN 0 2 2003

Technology Center 2100

OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

In re Application of: Larry Lee Hines)
Application No. 09/942,072)
Filed: August 28, 2001) **DECISION ON REQUEST FOR**
For: USER SELECTION AND) **WITHDRAWAL AS ATTORNEY**
AUTHENTICATION PROCESS)
OVER SECURE AND NONSECURE)
CHANNELS)

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

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

The request is **GRANTED**.

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

For

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

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 2100

ZILKA-KOTAB, PC
P.O. Box 721120
San Jose, CA 95172-1120

In re Application of:
Dmitry V. YEPISHIN, et al.
Application No. 09/942,080
Filed: August 28, 2001
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR PATTERN REPLAY USING STATE RECOGNITION

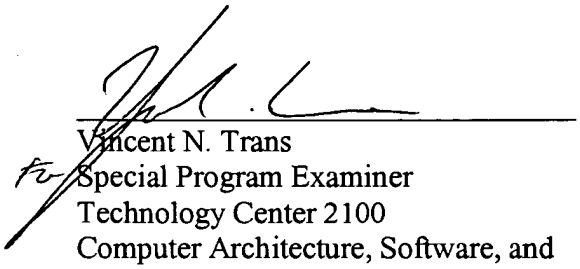
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 14, 2005.

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

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ZILKA KOTAB, PC
P.O. Box 721120
San Jose, CA 95172-1120

In re Application of:
Dmitriy YEPISHIN, et al.
Application No. 09/942,081
Filed: August 28, 2001
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR A USER AGENT FOR PATTERN REPLAY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed April 21, 2005.

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

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

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

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SEAN M. BRENNAN
SANGAMO BIOSCIENCES, INC.
501 CANAL BLVD., SUITE A 100
RICHMOND, CA 94804

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MAY 17 2004

OFFICE OF PETITIONS

In re Application of :
Casey C. Case et al :
Application No. 09/942,087 : ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. 8325-0002.21

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

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on April 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

The file will be forwarded to Technology Center AU 1631 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:
Dahna S. Pasternak
Robins & Pasternak LLP
1731 Embarcadero Road, Suite 230
Palo Alto, CA 94303

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

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OFFICE OF PETITIONS

In re Application of	:	
Nishibayashi et al.	:	
Application No. 09/942,101	:	ON PETITION
Filed: August 30, 2001	:	
Attorney Docket No. 50212-270	:	

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

The petition is **granted.**

This application became abandoned for failure to file a proper reply to the final Office action mailed December 11, 2003. A one month extension of time was obtained. Accordingly, this application became abandoned on April 12, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office incorrectly charged petitioner's deposit account $110 for a one month extension of time upon receipt of the petition. The $110 will be credited back to petitioner's deposit account.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

LEE & HONG
801 S. FIGUEROA STREET
14TH FLOOR
LOS ANGELES, CA 90017

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MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Young-Joon Ahn, et al. :
Application No. 09/942,107 : ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. 2018-3-12 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 3, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 4, 2001.

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

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

Retta Williams

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

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

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DEC 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Compton, et al. :
Application No. 09/942,146 : DECISION ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. 960296.98342 :

This is in response to the preliminary amendment filed October 23, 2002, by facsimile transmission. On July 1, 2002, petitioners had filed a "Response to Notice of Incomplete Nonprovisional Application," requesting that based on an incorporation by reference statement drawings inadvertently omitted from the application be considered as filed on August 29, 2001, the date of filing of the above-identified divisional application.

Application papers in the above-identified application were filed on December 13, 2001. However, on January 14, 2002, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings. The initial petition under § 1.182 was dismissed for failure to include an amendment submitting the three sheets of drawings and requesting that the requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement (Decision mailed September 3, 2002).

As stated in the previous decision, the application as filed contained the incorporation by reference statement, incorporating the entire disclosure of prior application No. 09/627,986. MPEP 201.06 provides in, pertinent part, that:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is

accorded a filing date and that the amendment will be entered.

The initial response was treated as a petition under § 1.182 and the required fee was charged to Deposit Account No. 17-0055. Petitioner has now submitted the required preliminary amendment requesting entry of the omitted material contained in the prior application and submitted in the amendment (e.g., three (3) sheets of drawings containing Figures 1-3).

In view thereof, the petition under § 1.182 is **GRANTED**. The amendment will be considered by the examiner in due course.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- according of a filing date of August 29, 2001, using the application papers received in the Office on that date and the drawings submitted on petition filed July 1, 2002, and for indication in the records of the Office that the application contains three (3) sheets of drawings; and
- mailing of a corrected filing receipt.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina Y. Donnell 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

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

Paper No. 7

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SEP 0 3 2002

OFFICE OF PETITIONS

In re Application of
Compton, et al.
Application No. 09/942,146
Filed: August 29, 2001
Attorney Docket No. 960296.98342

DECISION ON PETITION

This is in response to the "Response to Notice of Incomplete Nonprovisional Application," filed July 1, 2002. Therein, petitioners request that based on an incorporation by reference statement that drawings inadvertently omitted from the application be considered as filed on August 29, 2001, the date of filing of the above-identified divisional application.

Application papers in the above-identified application were filed on December 13, 2001. However, on January 14, 2002, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.

In reply, petitioner filed the instant communication. Petitioner acknowledges that the drawings were inadvertently omitted at the time of filing of the application. Petitioner argues, however, that this application is a divisional application, and that the entire disclosure of the prior application, including the drawings, was incorporated by reference into the instant application, and thus, the application is entitled to a filing date of August 29, 2001. Included with the petition are three sheets of drawings.

A review of the application-as-filed reveals that it contained the incorporation by reference statement, incorporating the entire disclosure of prior application No. 09/627,986. MPEP 201.06 provides in, pertinent part, that:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An

amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.

The instant response has been treated as a petition under §1.182 and the required fee has been charged to Deposit Account No. 17-0055, as authorized.

Thus, petitioner has filed the required petition under §1.182 and the required fee. However, petitioner has not submitted the required preliminary amendment requesting entry of the omitted material contained in the prior application and submitted in the amendment (e.g., three (3) sheets of drawings containing Figures 1-3).

In view thereof, the petition under §1.182 is **DISMISSED** without prejudice to reconsideration upon the timely filing of the required preliminary amendment. Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision. This period is not extendable under 37 CFR §1.136(a). See 37 CFR §1.181(f).

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

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

By FAX: (703) 308-6916
Attn: Office of Petitions
Attn: Nancy Johnson[1]

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

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

[1] To facilitate quick resolution of this matter, petitioner may elect to file the preliminary amendment by facsimile communication and to telephone attorney Johnson at the time of transmission to make her aware to expect the response.

UNITED STATES PATENT AND TRADEMARK OFFICE

Copy for Examiner

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE, SUITE 2040
MILWAUKEE, WI 53202-4497

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DEC 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Compton, et al. :
Application No. 09/942,146 : DECISION ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. 960296.98342 :

This is in response to the preliminary amendment filed October 23, 2002, by facsimile transmission. On July 1, 2002, petitioners had filed a "Response to Notice of Incomplete Nonprovisional Application," requesting that based on an incorporation by reference statement drawings inadvertently omitted from the application be considered as filed on August 29, 2001, the date of filing of the above-identified divisional application.

Application papers in the above-identified application were filed on December 13, 2001. However, on January 14, 2002, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings. The initial petition under § 1.182 was dismissed for failure to include an amendment submitting the three sheets of drawings and requesting that the requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement (Decision mailed September 3, 2002).

As stated in the previous decision, the application as filed contained the incorporation by reference statement, incorporating the entire disclosure of prior application No. 09/627,986. MPEP 201.06 provides in, pertinent part, that:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is

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accorded a filing date and that the amendment will be entered.

The initial response was treated as a petition under § 1.182 and the required fee was charged to Deposit Account No. 17-0055. Petitioner has now submitted the required preliminary amendment requesting entry of the omitted material contained in the prior application and submitted in the amendment (e.g., three (3) sheets of drawings containing Figures 1-3).

In view thereof, the petition under § 1.182 is **GRANTED**. The amendment will be considered by the examiner in due course.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- according of a filing date of August 29, 2001, using the application papers received in the Office on that date and the drawings submitted on petition filed July 1, 2002, and for indication in the records of the Office that the application contains three (3) sheets of drawings; and
- mailing of a corrected filing receipt.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina Y. Donnell for

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

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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of :
David Glazer et al :
Application No. 09/942,161 : DECISION GRANTING PETITION
Filed: August 29, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7663-5000 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 6, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 30, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2178 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

Mail Date: 04/20/2010

Applicant	: David Glazer	: DECISION ON REQUEST FOR
Patent Number	: 7627810	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/942,161	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **234** 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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ALEXANDRIA, VA 22313-1450
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Paper No. 12

PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS, MO 63006

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OFFICE OF PETITIONS

In re Application of
Khanna et al.
Application No. 09/942,174
Filed: August 29, 2001
Attorney Docket No. SO3285-US

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 14, 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 March 21, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 22, 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 1600 for further examination on the merits.

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

May 6, 2005

Ronald O. Neerings
Texas Instruments Incorporated
P. O. Box 65474, M/S 3999
Dallas, TX 75265

In re Application of:
Anand G. Dabak
Serial No: 09/942,192 On Petition
Filing Date: August 29, 2001
For: **MULTI-MODE RADIO PICONET/SCATTERNET**

In response to the petitions received on January 7, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 2, 2001. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned December 4, 2001. The notice of abandonment was mailed on October 16, 2003.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Part of Nonprovisional Application on November 27, 2001.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

May 6, 2005

Ronald O. Neerings
Texas Instruments Incorporated
P. O. Box 65474, M/S 3999
Dallas, TX 75265

In re Application of:
Anand G. Dabak
Serial No: 09/942,192 On Petition
Filing Date: August 29, 2001
For: **MULTI-MODE RADIO PICONET/SCATTERNET**

In response to the petitions received on January 7, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 2, 2001. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned December 4, 2001. The notice of abandonment was mailed on October 16, 2003.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Part of Nonprovisional Application on November 27, 2001.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

United States Patent and Trademark Office
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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BOARD OF PATENT APPEALS
AND INTERFERENCES

Kenneth W. Float
The Law Offices of Kenneth W. Float
P.O. Box 80790
Rancho Santa Margarita, CA

Paper No: 0
Appeal No: 2005-0540
Application: 09/942,199
Appellant: Mark S. Anvick

Board of Patent Appeals and Interferences
Docketing Notice

Application 09/942,199 was received from the Technology Center at the Board on November 23, 2004 and has been assigned Appeal No: 2005-0540.

A review of the file indicates that the following documents have been filed by appellant:

Appeal Brief filed on:	November 06, 2003
Reply Brief filed on:	NONE
Request for Hearing filed on:	NONE

In all future communications regarding this appeal, please include both the application number and the appeal number.

The mailing address for the Board is:

BOARD OF PATENT APPEALS AND INTERFERENCES
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450

The facsimile number of the Board is 571-273-0052. Because of the heightened security in the Washington D.C. area, facsimile communications are recommended. Telephone inquiries can be made by calling 571-272-9797 and should be directed to a Program and Resource Administrator.

By order of the Board of Patent Appeals and Interferences

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Costa et al.	:	
Application No. 09/942,260	:	LETTER REGARDING
Filed: August 28, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 8285/448	:	

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)," filed August 22, 2005, notifying the Office of an error in applicants' favor in the initial determination of patent term adjustment. Applicants request correction from five hundred ninety-nine (599) days to five hundred ninety-eight (598) days of patent term adjustment.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is five hundred eighty-four (584) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 24, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 599 days. Applicants disclose that the period of reduction pursuant to 1.704(b) for applicant delay in responding to the Office action mailed September 28, 2004 should be 6 days, not 5 days. Applicants state that the response was received on

January 3, 2005, not January 2, 2005. In support thereof, applicants provide a copy of their itemized and date-stamped postcard.

The record has been reviewed and applicants are correct. The response appears in the application file with a date-stamp of receipt thereon of January 3, 2005. Accordingly, the period of reduction is 6 days.

A review of the application history further reveals an additional basis for entry of a period of reduction. Pursuant to § 1.704(c)(8):

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

In this instance, after a response had been filed on May 9, 2005, on May 23, 2005, applicants filed an Information Disclosure Statement (IDS). This IDS was not expressly requested by the examiner, and did not include a §1.704(d) statement. Thus, a reduction of 14 days should have been entered for its filing.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is five hundred eighty-four (584) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to Technology Center AU 2613 for consideration by the examiner of the IDS filed May 23, 2005. Thereafter, the application will be forwarded to the Office of Patent Publication for issuance of the application.

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

Kery Fries

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

Enclosure: Copy of adjusted PALM calculation

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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ZILKA-KOTAB, PC
P.O. Box 721120
San Jose, CA 95172-1120

MAIL

APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Dmitriy V. YEPISHIN, et al.
Application No. 09/942,263
Filed: August 28, 2001
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR RECOGNIZING A STATE OF A REMOTE APPLICATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 14, 2005.

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

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Dominic M. Kotab
ZILKA-KOTAB, PC
P.O. Box 721120
San Jose, CA 95172-1120

MAIL

APR 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Dimitriy V. Yepishin, et al.
Application No. 09/942,263
Filed: August 28, 2001
For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR RECOGNIZING A STATE OF A REMOTE APPLICATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 14, 2005.

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

The request is **GRANTED**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be*** addressed to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

James R. Matthews

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/10/07

Paper No.: ____

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/942212 Patent No: 6614393B2

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

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

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

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Darren Schuberg — **SPE**

2834 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

DEC - 8 2008

In re Application of :
ROYLANCE, EUGENE A. : **DECISION ON PETITION**
Application No. 09/942,293 :
Filed: August 29, 2001 :
Attorney Docket No. 10004287-1 :

This is a decision on the Petition To Withdraw Holding Of Notice Of Abandonment received in the United States Patent and Trademark Office (USPTO) on April 20, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due, mailed October 28, 2005, which set forth a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on March 31, 2006.

Petitioner states that the Applicants responded by timely paying the Issue Fee on January 11, 2006.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquires concerning this decision be directed to the undersigned at 703-305-9250 x 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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Paper No. 14

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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OCT 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Walter L. Moden et al :
Application No. 09/942,323 : DECISION GRANTING PETITION
Filed: August 29, 2001 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 2269-3089.2US :

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 June 27, 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 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks

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

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

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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. 15

Date : October 29, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/942,323**

Applicant(s) : Walter L. Moden et al
Application No. : 09/942,323
Filed : August 29, 2001

The above-identified application has been assigned Patent No. 6,642,065 and an issue date of November 4, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 4, 2003:

> **"All reference to Patent No. 6,642,065 to Walter L. Moden et al of Idaho for METHOD AND APPARATUS FOR APPLYING ADHESIVES TO A LEAD FRAME appearing in the Official Gazette of November 4, 2003 should be deleted since no patent was granted."**

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. ____

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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OCT 29 2003

OFFICE OF PETITIONS

In re Application of
Walter L. Moden et al
Application No. 09/942,323
Filed: August 29, 2001
Attorney Docket No. 2269-3089.2US

: DECISION GRANTING PETITION
: UNDER 37 CFR 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 June 27, 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 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions
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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STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10038

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Angelucci, et al.	:	
Application No. 09/942,333	:	ON PETITION
Filed: August 29, 2001	:	
Attorney Docket No. 8932-546	:	

This is a decision on the petition to revive the abandoned application under 37 CFR 1.137(b), filed April 11, 2007.

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

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed May 4, 2006. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on November 3, 2006, made timely by obtaining a three (3) month extension of time. However, by Advisory Action mailed November 24, 2006, the Examiner advised Applicant that the response would not be entered because it failed to place the application in condition for allowance. Accordingly, the application became abandoned on November 5, 2006. A Notice of Abandonment was mailed on December 11, 2006.
With the instant petition, petitioner paid the petition fee, made a proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal.

The $500 fee for the Notice of Appeal and the $1,500 petition fee have been charged to Deposit Account No. 50-3013, as authorized.

Petitioner's request that the petition fee not be charged is dismissed.[1]

The matter is being forwarded to Group Art Unit 3733 for consideration of the Pre-Appeal Brief Request for Review, filed April 11, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

[1] 37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113. 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. Applicant should have ensured that the amendment had been entered or applicant should have filed either a Request for Continued Examination (RCE), continuing application, or Notice of Appeal.

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JAN 25 2008

OFFICE OF PETITIONS

CIBA VISION CORPORATION
PATENT DEPARTMENT
11460 JOHNS CREEK PARKWAY
DULUTH GA 30097-1556

In re Application of :
Lipscomb, et al. :
Application No. 09/942,347 : DECISION
Filed: 29 August, 2001 :
Attorney Docket No. CL/V-31575A :

This is a decision on the petition originally filed on 10 May, 2004, resubmitted on 15 August, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

Petitioner's Power of Attorney and Notice of Change of Address (filed on 15 August, 2007, is acknowledged and entered.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 26 August, 2003 with reply due absent extension of time on or before 26 November, 2003;

- the application went abandoned after midnight Wednesday, 26 November, 2003;

- the Office mailed the Notice of Abandonment on 2 April, 2004;

- it appears from documentation submitted by Petitioner that, on 10 May, 2004, Petitioner filed the original petition to withdraw the holding of abandonment with, *inter alia*, an averment that the reply (in the form of an amendment and terminal disclaimer with fee) to the Office action in question was filed over a 25 November, 2003, certificate of mailing on 28 November, 2003, and evidenced that event by a date-stamped ("NOV 28 2003") receipt card (see: MPEP§503)), and Petitioner seems to have provided with his petition copies of the amendment and terminal disclaimer (with fee);

- it does not appear that the Office replied to the filing of that 10 May, 2004, petition;

- Petitioner seems not to have inquired as to the status of the instant matter (and the lack of Office reply to the 10 May, 2004, petition) until on or about 15 August, 2007, when Petitioner resubmitted the request to withdraw the holding of abandonment, along with evidence of the prior filings in the form of a date-stamped (("MAY 10 2004") receipt card, and copies of the petition, and the earlier reply (amendment, terminal disclaimer and fee) and receipt card.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

See specifically, the regulations at 37 C.F.R. §10.18.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of 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]))

---

[2] 35 U.S.C. §133 provides:

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

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

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

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

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the basis for a petition seeking withdrawal of a holding of abandonment.[7] And the commentary at MPEP §711.03(c)(A) and (B) details the requirements therein. And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 2 April, 2004, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center AU 3728 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the abandonment has been lifted by the Technology Center in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/Art Unit where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No. 3

Curtis A. Vock
Lathrop & Gage, L.C.
4845 Pearl East Circle, #300
Boulder, CO 80301

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AUG 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Edward Dowski :
Application No. 09/942,392 : NOTICE
Filed: August 31, 2001 :
Attorney Docket No. 402801

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2800.

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

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McGuire Woods LLP
Suite1800
1750 Tysons Boulevard
McLean VA 22102

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JUN 07 2006
OFFICE OF PETITIONS

In re Application of
Stephen E. Fischer
Application No.: 09/942,419
Filed: August 30, 2001
Attorney Docket No.: FIS920010195US1
For: TETRAHEDRALIZATION OF NON-CONFORMAL THREE-DIMENSIONAL MIXED ELEMENT MESHES

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 or alternatively to revive abandoned application under 37 CFR 1.137(b), filed February 13, 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 issue fee was paid on November 17, 2005.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowance mailed September 30, 2005, which set a statutory period for reply of three (3) months. On February 13, 2006, applicant filed the petition to withdraw the holding of abandonment under 37 CFR 1.181 considered herein. The petition indicates that formal drawing sheet (Figure 7) at issue was timely filed on April 14, 2005. A review of the application file confirms that applicant's assertion is correct. Therefore, the Notice of Allowability indicating that corrected Figure 7 was needed is in error and applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181 is appropriately granted.

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

The application is being referred to the Office of Publications.

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 PATENT & TRADEMARK FFICE

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

#10

Eunhee Park, Esq.
Baker & McKenzie
805 Third Avenue
New York, NY 10022

MAILED

DEC 03 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Robin Ellen Birdsong et al : **TO MAKE SPECIAL**
Application No. 09/942,422 : **(INFRINGEMENT)**
Filed: August 30, 2001
For: ELECTRONIC FLEX CARD ADJUDICATION SYSTEM AND METHOD

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 11, 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.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed February 11, 2002 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

kjd: 11/27/02

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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SEP 10 2002

OFFICE OF PETITIONS

In re Application of
Peter R. Horsfall
Application No. 09/942,426
Filed: August 29, 2001
Attorney Docket No. E3879.0030/P030

DECISION ON PETITION

This is a decision on the petition filed on August 14, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed October 2, 2001. This Notice set a period for reply of two (2) months from the mail date of the Notice. Petitioner responded on January 31, 2002 by submitting an executed declaration and the surcharge for its late filing.[1] However, the Initial Patent Examination Division mailed petitioner a Notice of Incomplete Reply on July 8, 2002. The Notice of Incomplete Reply required that petitioner submit substitute drawings, as was originally required by the Notice to File Missing Parts of Nonprovisional Application. The Notice of Incomplete Reply set a period for response as originally set forth by the Notice to File Missing Parts. Because petitioner failed to file substitute drawings with an extension of time, the above-identified application became abandoned on February 3, 2002. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner filed substitute drawings, paid the petition fee, and made the proper statement of unintentional delay under 37 CFR 1.137(b).

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 $1560 extension of time fee submitted with the petition on August 14, 2002 was subsequent to the maximum period obtainable for reply (May 2, 2002), this fee will be refunded to petitioner under separate cover.

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

[1] Made timely because applicant obtained a two month extension of time.

petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Dickstein, Shapiro, Morin & Oshinsky LLP
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 9/9/02 | 2 Serial/Patent # 09/992,426

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
✓	Extension of Time	7	8/14/02	$ 1,560.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $1,560.00

8 TO BE REFUNDED BY: CC

✓ Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

Petitioner tried to purchase an extension of time beyond the maximum period available for reply

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Cliff Congo TITLE: Petitions Attorney

SIGNATURE: Cliff Congo PHONE: 305-0272

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kell DATE: 9/10/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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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STEVEN I. WEISBURD
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS, 41ST FLOOR
NEW YORK, NY 10036-2714

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MAR 0 6 2009

OFFICE OF PETITIONS

In re Application of
Peter R. **HORSFALL**
Application No. 09/942,426
Filed: August 29, 2001
Attorney Docket No. **P/692-152**

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 5, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 30, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3691 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 10

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

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DEC 0 4 2003

OFFICE OF PETITIONS

In re Application of
Ronald A. Meck
Application No. 09/942,448
Filed: August 29, 2001
Attorney Docket No. 034942-252

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2003, to revive the above-identified application.

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

In response to the Notice to File Corrected Application Papers, petitioner submitted with the instant petition $665 for the petition to revive fee, and six (6) sheets of substitute drawings consisting of Figures 1-9.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to 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
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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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FEB 20 2007

OFFICE OF PETITIONS

In re Application of :
Nikos Panayotatos :
Application No. 09/942,463 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. NP/1 CIP DIV :

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 17, 2005, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 18, 2005. *See* MPEP 1215.04. A Notice of Abandonment was mailed on June 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/497,684, filed August 1, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See*

In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,080 extension of time fee submitted with the petition on August 1, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 5

MAILED

SEP 0 2 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

In re Application of :
Knowles et al. :
Application No. 09/942,469 :
Filed: August 29, 2001 :
For: **SYSTEMS AND METHODS FOR FACILITATING USER ACCESS TO CONTENT STORED ON PRIVATE NETWORKS** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on July 10, 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.

Attorneys requesting withdraw are not of record due to a Revocation of Power of Attorney executed by the assignee on August 5, 2002.

Accordingly, the request is **DISMISSED AS MOOT**.

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.

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

cc: WAGNER, MURABITO & HAO LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

March 6, 2003

Michael J. Ure
Tropian, Inc.
20183 Stevens Creek Blvd.
Suite 150
Cupertino, CA 95014

In re application of:
CI0FFI DECISION ON PETITION
Serial No.: 09/942,484
Filed: August 24, 2001
For: POWER SUPPLY PROCESSING FOR SWITCH MODE POWER AMPLIFIERS

This is a decision on the petitions received by fax on January 17, 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 October 2, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned December 4, 2001. The notice of abandonment was mailed September 9, 2002.

On January 17, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts mailed September 9, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on December 3, 2001 with the wrong serial number.

The petition is hereby GRANTED.

The response of December 3, 2001, has been misplaced in the office. A copy of the drawing is needed to complete the application.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 14

ANDERSON & MORISHITA, L.L.C.
2725 S. JONES BOULEVARD
SUITE 102
LAS VEGAS, NV 89146

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DEC 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Wayne Odom :
Application No. 09/942,520 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. KARAWAY01-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113, to the final Office action mailed April 14, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight July 14, 2003.

In response to the final Office action, petitioner submitted with the instant petition $665 for the petition to revive fee, and $385 for the filing of a Request for Continued Examination (RCE) under 37 CFR 1.114.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 3700, for review of the previously submitted amendment filed on July 16, 2003, and for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6580137	2003-06-17	09/942,533	2001-08-29	BSTU.004G

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	/Mary Givens/	Date (YYYY-MM-DD)	2009-04-30
Name	Mary Givens		
Enter Reel and Frame Number		Remove	
Reel Number	012331	Frame Number	0512
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

In re Patent No. 6580137
Issue Date: June 17,2003
Application No. 09942533
Filed: August 29,2001
Attorney Docket No. 11467/7:1

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

This is a decision on the electronic petition, filed April 30,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 30,2009 . 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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P.O. BOX 1450
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JJGJR.: 02-05

Paper No: __

DONALD J. POCHOPIEN
MCANDREWS, HELD, & MALLOY. LTD
CITICORP CENTER, 34TH FLOOR
500 WEST MADISON STREET
CHICAGO IL 60661

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of
Buskirk, et al. :
Application No. 09/942,537 :
Filing Date: 29 August, 2001
Attorney Docket No. RTI 143/1915-13879US01 :

This is a decision on the petition filed on 31 January, 2005, alleging unavoidable delay under 37 C.F.R. §1.137(a), and, in light of the allegations considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**, and the petition under 37 C.F.R. §1.137(a) is **DISMISSED as moot**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a "Notice of Drawing Inconsistency . . ." mailed on 15 December, 2004 (the 15 December Notice), with reply due under a non-extendable deadline on or before 15 February, 2005;
- the application went abandoned after midnight 15 February, 2005;
- it appears that the Office did not mail a Notice of Abandonment before the instant petition was filed;

- on 31 January, 2005, Petitioner filed the instant petition, with fee, and drawings (accompanied by an amendment under 37 C.F.R. §1.312 as his reply, and stated as his showing therein (with a declaration and supporting documents and his office protocols) that the 15 December Notice was not received until 18 January, 2005, after the deadline for reply.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

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

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner evidences receipt of the 15 December Notice after the due date of that Notice.

CONCLUSION

Because Petitioner satisfied the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 hereby is **granted**, there appears to be is no Notice of Abandonment to be vacated; the petition under 37 C.F.R. §1.137(a) is **dismissed as moot**, and the petition fee ($500.00) is waived, and $1,500.00 authorize by Petitioner and charged by the Office (both in error) are refunded via Treasury check.

Pursuant to the provisions of OG Notice of 23 March, 2004, the Office of Patent Publications has the authority to waive the provisions of 37 C.F.R. §1.312 so as to accept the amendment required (*e.g.*, as to drawings and consistency) without having to withdraw the application from issue.[8]

---

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

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

[8] The OG Notice provides:

United States Patent and Trademark Office OG Notices: 23 March 2004

Waiver of 37 C.F.R. §1.312 for Documents Required by the Office of Patent Publication

In preparation of a patent for issuance as a patent grant, if the Office of Patent Publication discovers an error in the text, or drawings of a patent application, including any missing text, or an inconsistency between the drawings and the application papers, the Office of Patent Publication may require an appropriate amendment to the specification or drawings. 37 C.F.R. §1.312, however, does not permit an amendment after the payment of the issue fee without withdrawal of the application from issue.

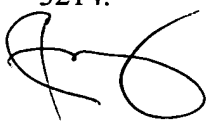
In order to be able to accept such an amendment as may be required without having to withdraw an application from issue, the Office of Patent Publication is hereby delegated the authority to waive the requirement of 37 C.F.R. §1.312 and accept an amendment filed after the payment of the issue fee.

For information on this notice, contact the Office of Patent Publication at (703)305-8263.

February 24, 2004
STEPHEN G. KUNIN
Deputy Commissioner for
Patent Examination Policy

The file is forwarded to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 2727-3214.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

Felix J. D'Ambrosio
Jones Tullar & Cooper
PO Box 2266 Eads Station
Arlington, VA 22202

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Wolfram Lutke et al. :
Application No. 09/942,561 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. ORT 1559 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 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 Notice to File Missing Parts of Application (Notice) mailed October 3, 2001, which set a shortened statutory period for reply of Two (2) months from the mail date of the Notice. Accordingly, the application became abandoned on December 4, 2001.

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

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

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of

Berthelot, et al.

Application No. 09/942,569

Filed: August 31, 2001

Attorney Docket No. 01807.001743

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 22, 2008.

The petition is **granted**.

This application was held abandoned July 17, 2008, after no reply was received to the final Office action mailed April 16, 2008. The notice set a shortened statutory period for reply of three month from its mailing date. No response was received within the allowable period and the application became abandoned on July 17, 2008. A Notice of Abandonment was mailed November 21, 2008. The instant petition was filed on December 22, 2008. Petitioner maintains that the notice of April 16, 2008, was never received and provides a copy of the relevant docketing calendar as proof of the same.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2100, GAU 2162 for further processing that may include remailing the final Office action and resetting of the period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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AUG 10 2007

OFFICE OF PETITIONS

In re Patent No. 7,157,245 :
Issued: January 2, 2007 :
Application No. 09/942,583 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket Number: 1581.0840001/RWE :

This is a decision on the petition, filed March 12, 2007, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the failure to correctly idenetify all assignees on the Fee(s) Transmittal form PTOL-85(b) filed August 17, 2006 was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to include the name of a second assignee on the front page of the Letters Patent.

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

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

Office assignment records however, reflect that HEALTH PROTECTION AGENCY and IMPERIAL COLLEGE INNOVATIONS LIMITED are assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

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

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been applied.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

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Paper No. 3

MAY 0 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of:)
Shah et al.)
Application No. 09/942,608) **DECISION ON REQUEST FOR**
Filed: August 31, 2001) **WITHDRAWAL AS ATTORNEY**
For: A MECHANISM FOR REPORTING) TOPOLOGY CHANGES TO CLIENTS IN A CLUSTER

This is a decision on the Request To Withdraw from Representation filed April 30, 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 filedApril 30, 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: c/o Anne Richards
Schwegman, Lundberg, Woessner & Kluth P.A.
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OCT 2 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LIGHTRAIL NETWORKS
1395 PICCARD DRIVE
SUITE 115
ROCKVILLE, MD 20850

In re Application of
Leon Li-Feng Jiang, et al.
Application No. 09/942,664
Filed: August 31, 2001
For: WDM OPTICAL COMMUNICATION SYSTEM WITH CHANNELS SUPPORTING MULTIPLE DATA FORMATS

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment filed September 12, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed March 10, 2004. A Notice of Abandonment was mailed June 2, 2005.

Petitioner alleges to have timely filed a response to said Office communication on August 9, 2004. The response was filed via facsimile from Japan, and hence the response would have been received in the Office on August 8, 2004. In support thereof, Petitioner notified the Office that the response for the instant application may have been inadvertently filed with the wrong serial number.

A review of the other application file found that the original amendment filed on August 8, 2004 was provided with an incorrect serial number and was therefore improperly matched to the wrong application. The response was however provided with the correct inventor name, filing date, attorney docket number, and title. Accordingly, the response was removed from the other application, all fee processing has been corrected, and the response has been matched to the instant application.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being forwarded to the Technology Center's technical support staff for entry of the August 8, 2004 response. From there, the file will be forwarded to the examiner for appropriate action in due course.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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FEB 28 2007

OFFICE OF PETITIONS

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

In re Application of :
Victor E. Vandell :
Application No. 09/942,672 : DECISION ON PETITION
Filed: August 31, 2001 : TO WITHDRAW
Attorney Docket No. P 0282906 : 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 15, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on September 25, 2006.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Victor Vandell**
BMM PowerMoves LLC
420 57th Street N.E.
Washington D.C. 20019

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Pillsbury Winthrop Shaw Pittman, LLP
P.O. Box 10500
Mclean, VA 22102

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of :
Victor E. Vandell :
Application No. 09/942,672 : DECISION ON PETITION
Filed: August 31, 2001 : TO WITHDRAW
Attorney Docket No. P 0282906 : 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 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 Jack S. Barufka on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Victor E. Vandell at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed June 6, 2007.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Victor E. Vandell**
BMM PowerMoves LLC
420 57th Street, N.E.
Washington D.C. 20019

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
11/107,123	04/15/2005	Douglas M. Vick	634223605009

CONFIRMATION NO. 5861

49840
BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ
SIX CONCOURSE PARKWAY
SUITE 3100
ATLANTA, GA 30328

POA ACCEPTANCE LETTER

Date Mailed: 02/01/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/11/2007.

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

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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BOMBARDIER RECREATIONAL PRODUCTS INC
INTELLECTUAL PROPERTY DEPT
PO BOX 230
NORTON, VT 05907-0230

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OFFICE OF PETITIONS

In re Application of	:	
Eric Bouffard et al	:	
Application No. 09/942,673	:	ON PETITION
Filed: August 31, 2001	:	
Attorney Docket No. P 283115	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 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 November 22, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 22, 2005.

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

This matter is being referred to Publishing Division.

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

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Paper No. 081704

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

In re Application of:	:	
ROBERT DAYTON SIGLER	:	DECISION ON REQUEST TO WITHDRAW
Serial No.: 09/942,680	:	FROM RECORD
Filed: August 31, 2001	:	
Attorney Docket No.: **040092-009510US**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 18, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of McDermott, Will & Emery was filed on April 05, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

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

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OCT 01 2004

TECHNOLOGY CENTER 2800
SPECIAL PROGRAM CENTER

cc: MCDERMOTT, WILL & EMERGY
18191 VON KARMAN, AVENUE, SUITE 400
IRVINE, CA 92612

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OGILVY RENAULT
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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DEC 24 2003

OFFICE OF THE DIRECTOR
TC 3600

In re Application of :
Germain Fournier, et al. : DECISION ON PETITION
Application No. 09/942,682 : TO WITHDRAW THE
Filed: August 31, 2001 : HOLDING OF ABANDONMENT
For: TURNING DEVICE FOR LUMBER AND :
THE LIKE

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 July 28, 2003, and supplemented on December 22, 2003.

The petition is **GRANTED**.

A review of the file records reveals that an Office Action was mailed to applicant on November 26, 2002. Since a response from applicant was not received, the application was held abandoned, and a Notice to that effect was mailed on July 7, 2003.

Applicant submits that the Office Action mailed on November 26, 2002 was never received and provides copies of docket records presumably to take advantage of the procedure outlined in 1156 O.G. 53 and MPEP 711.03(c) for withdrawing an abandonment in an application having a non-received Office correspondence.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of February 26, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Practitioner submits a statement that the above-noted Office Action was not received. Practitioner also attests to the fact that a search of the file jacket and docket records indicates that the Office Action was not received. A supplemental copy of the docket record where the non-received Office action would have been entered as being due on and around the date of February 26, 2003 was submitted by facsimile transmission on December 22, 2003 in response to a request from the petition's examiner. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office Action of November 26, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps: 12/22/03

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Paper No. 15

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

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OFFICE OF PETITIONS

In re Application of
Tatsuo Saishu et al
Application No. 09/942,743
Filed: August 31, 2001
Attorney Docket No. 213539US-2SRD

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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]

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 2673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of :
Smith et al. :
Application No. 09/942,757 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. AUS920010459US1

This is a decision on the "Petition to Reset Time Period for Response to Office Action of January 6, 2005", filed on November 1, 2005. The petition will treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED.**

The record reflects that on January 6, 2005, a non-final Office action was mailed to an address other than the designated correspondence address of record. Due to a clerical error, the USPTO changed the a correspondence address of record to that of Sidney Weatherford. The instant petition was filed on November 1, 2005, after petitioner checked the PAIR system and realized that the non-final Office action has been sent to an incorrect address. Petitioner also filed a reply to the non-final Office action.

A review of the subject application file reveals that the application was abandoned by operation of law on April 7, 2005, for failure to respond to the non-final Office action, notwithstanding the failure of the USPTO to acknowledge the same. Although the application was abandoned and the amendment filed November 1, 2005, was untimely, the examiner assigned to this application entered the amendment and issued a final Office action therefrom on February 15, 2006. It is noted that applicant has filed a Notice of Appeal in the application. The instant petition is being treated as a petition to withdraw the holding of abandonment because the application is abandoned by operation of law.

The petition to withdraw the holding of abandonment is granted as petitioner has established that the non-final Office action mailed January 6, 2005, was mailed to an incorrect address. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 2100, GAU 2155, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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3COM CORPORATION
350 CAMPUS DRIVE
MARLBOROUGH, MA 01752-3064

Mail Date: 04/21/2010

Applicant	: Nathan Henderson	: DECISION ON REQUEST FOR
Patent Number	: 7577857	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/942,789	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1051** 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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HAYNES BEFFEL & WOLFELD, LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

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In re Application of :
Martin Lysejko, et. al. :
Application No. 09/942,790 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. ASPN 1003-1 :

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

This application became abandoned for failure to timely respond to the final Office action mailed October 17, 2005. A Notice of Abandonment was mailed on May 2, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2616.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

February 3, 2003

Michael E. Whitham
Whitham Curtis & Christofferson
11491 Sunset Hills RD
Suite 340
Reston VA 20190

In re application of:
James M. Leas DECISION ON PETITION
Serial No.: 09/942/823
Filed: August 30, 2001
For: SIGE OR GERANIUM FLIP CHIP OPTICAL RECEIVER

This is a decision on the petition received on September 17, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed October 4, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned December 5, 2001. The notice of abandonment was mailed August 6, 2002.

On September 17, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on October 23, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on October 23, 2001.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2633.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

PLEVY & HOWARD, P.C.
P.O. BOX 226
FORT WASHINGTON, PA 19034

In re Application of :
Jeffrey T. Baker :
Application No. 09/942,826 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. Baker-1 :

This is a decision on the petition, filed September 8, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 10, 2004, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on November 12, 2004. In response, on September 8, 2005, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The file is being referred to Technology Center Art Unit 2161 for consideration of the amendment filed September 8, 2005.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington DC 20004

In re Application of: Jeffrey Baker	)	
Application No. 09/942,826	)	
Filed: August 31, 2001	)	
For: APPARATUS AND METHOD FOR NEGOTIATING AND GENERATING CONTRACT DOCUMENTS ON-LINE	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed January 30, 2002.

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

The request is **GRANTED**.

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

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

cc: Jeffrey Baker
240 East Montgomery Avenue
Apt. #8
Ardmore, PA 19003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 21

ANNOP MAGNESS
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DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Annop Magness :
Application No. 09/942,855 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(a), filed November 8, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the "Notice of Allowability" (the "Notice") mailed March 24, 2004, which set a statutory period for reply of three-month from its mailing date. No response was received within the allowable period, and the application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on August 18, 2004.

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

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

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

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

The instant petition lacks item (3).

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

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

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

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

The standard

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

---

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

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

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

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

[7]Id.

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

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that petitioner was out of town and relied on a friend to receive notices from the Patent and Trademark Office and mail responsive correspondence and was also injured during the relevant period.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

The evidentiary standard for a petition under 37 CFR 1.137(a) requires that petitioner demonstrate that petitioner acted reasonably and prudently in the prosecution of the application and treated the prosecution of the application as his most important business. It is not evident from the petition whether petitioner's friend was an agent knowledgeable in the patent process. Absent some indication that petitioner's friend was familiar with the patent process and was aware of the gravity of the matter he was asked to handle, petitioner's decision to place the important business of prosecuting the application—for any length of time—with an inexperienced friend cannot be considered prudent. Relative to the satisfying the unavoidable standard, petitioner would have to demonstrate that the friend understood and accepted the responsibility of handling the papers and had some knowledge of the process such that petitioner's decision to rely on the friend can be considered prudent. If this can be demonstrated by petitioner, petitioner must then explain the why the friend—who was acting as petitioner's—agent failed in his responsibility and his delay in prosecuting the application on petitioner's behalf must also satisfy the unavoidable standard.

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

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

As to petitioner's claim of being injured, petitioner must demonstrate that the injury took place during the relevant period--beginning March 24, 2004 until the filing of a grantable petition—and that the injury was such that petitioner was unable to respond to the Notice of Allowability and was unable to file a petition until now. Copies of doctor's notes, medical records, and bills covering the relevant period may demonstrate this. Petitioner should be careful to redact all irrelevant personal information, i.e., social security and account numbers.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ROSEMEAD, CA 91770

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APR 19 2005

OFFICE OF PETITIONS

In re Application of :
Annop Magness :
Application No. 09/942,855 :
Filed: August 29, 2001 :
Attorney Docket No. :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), first filed on March 14, 2005, and in duplicate on April 13, 2005, to revive the above-identified application.

The renewed petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the "Notice of Allowability" (the "Notice") mailed March 24, 2004, which set a statutory period for reply of three-month from its mailing date. No response was received within the allowable period, and the application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on August 18, 2004. A petition under 37 CFR 1.137(a) was filed on November 8, 2004, and dismissed by a decision mailed December 10, 2004. The decision allowed an extendable period for reply of two months from its mailing date. The instant renewed petition was filed on March 14, 2005. No request for an extension of time within the first month was noted, but is required in order to make the instant renewed petition timely.

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

The instant petition lacks item (3).

---

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

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

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

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

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

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

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]
The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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

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

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

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

[7]Id.

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

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a

Application of the standard to the current facts and circumstances

In the instant renewed petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner again asserts that petitioner was out of town and relied on a friend to receive notices from the Patent and Trademark Office and mail responsive correspondence and was also injured during the relevant period.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

Petitioner is again advised that the evidentiary standard for a petition under 37 CFR 1.137(a) requires that petitioner demonstrate that petitioner acted reasonably and prudently in the prosecution of the application and treated the prosecution of the application as his most important business. The instant renewed petition does not establish that petitioner was prudent in relying on a friend to deliver to petitioner the Notice of Allowance and Notice of Allowability. If petitioner was going to be out of town for an extended period, petitioner certainly had the option of forwarding mail to the petitioner's location or of contacting the Patent and Trademark Office to ascertain the status of the application and of correspondence sent out in the application. Petitioner's reliance on a friend, who presumably had no knowledge of the importance of the papers he was being asked to receive and forward, is arguably imprudent and does not indicate that petitioner treated the application's prosecution as his most important business.

As to petitioner's claim of being injured during the relevant period—beginning March 24, 2004, until the filing of the grantable petition—it is noted that petitioner admits that the alleged injury to petitioner's back did not occur until November 8, 2004. Thus, the injury occurred well after the period for response to the Notice of Allowability expired—that period being three-months from the mailing date (March 23, 2004) of the Notice of Allowability. It is further noted that the doctor's note provided with the instant renewed petition clearly states that petitioner was not seen during the period relevant to this petition. Based on the aforementioned, it is concluded that the injury sustained on November 8, 2004, is irrelevant to the abandonment of the application that occurred for failure to respond to the Notice of Allowability mailed March 23, 2004. The renewed petition is dismissed, accordingly.

Petitioner is strongly encouraged to file a petition to revive based on unintentional abandonment under 37 CFR 1.137(b) (enclosed) as petitioner is unlikely to establish that the entire delay in responding to the Notice of Allowability was unavoidable given the facts presented. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

---

specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

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

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

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

UNITED STATES 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 1 2005

Annop Magness
P.O. Box 1997
Rosemead, CA 91770

In re Application of:
Annop Magness
Serial No. 09/942,855
Filed: August 29, 2001
For: MULTIUSE LIFTING AND ROLLING PLATFORM

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S HEALTH)

This is a decision on the petition filed February 7, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

The petition includes a statement from applicant's physician, P. Basil Vassantachart, M.D., attesting to the fact that Annop Magness is a patient under his care. However, the certificate merely documents Annop Magness' past medical condition. The petitioner has not provided evidence establishing that applicant's current medical condition would result in the inability of the applicant to assist in prosecution of the application if it were to run its normal course.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

For the above stated reasons, the petition is **DISMISSED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

SNM/jwk: 5/31/05

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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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AUG 2 2 2006

OFFICE OF PETITIONS

ANNOP MAGNESS
PO BOX 1997
ROSEMEAD, CA 91770

In re Application of :
Annop Magness :
Application No.: 09/942,855 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No: :

This is in response to the petition under 37 CFR 1.137(b) filed July 29, 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)."

The above-identified application became abandoned for failure to reply to the "Notice of Allowability" (the "Notice") mailed March 24, 2004, which set a statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on August 18, 2004. It is noted that the instant petition is titled a petition under 37 CFR 1.137(a). However, it is believed that petitioner intended to file the petition under 37 CFR 1.137(b) because petitioner has filed previously unsuccessful petitions under 37 CFR 1.137(a) and makes references in the instant petition to waiver of the $700.00 fee for the unintentional petition. The petition is, therefore, being treated 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 requirements of item (1) and (3) above.

Item (1) above has not been satisfied because of the failure to file a proper reply to the Notice of Allowability, which required corrected drawings to be filed. The renewed petition must be accompanied by a proper response to the Notice of Allowability before the petition will be considered grantable.

As to item (3), the petition fee of $750.00 did not accompany the petition. Petitioner's request for waiver of the fee is noted, but cannot be granted as the petition fee is a statutory requirement that cannot be waived pursuant to 37 CFR 1.183. Accordingly, the $750.00 petition fee must accompany the renewed petition in order to be considered grantable.

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

By mail:

Mail Stop Petitions
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
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

ANNOP MAGNESS
PO BOX 1997
ROSEMEAD, CA 91770

In re Application of

Annop Magness

Application No. 09/942,855

Filed: August 29, 2001

Attorney Docket No.

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OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), October 16, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability (the "Notice") mailed March 24, 2004. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 25, 2004. A Notice of Abandonment was mailed on August 18, 2004.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

Corrected drawings were received on October 16, 2006.

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

MAIL

AUG 2 7 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 6

MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105-2482

In re Application of:
Frederic SPAEY, et al.
Application No. 09/942,880
Filed: August 31, 2001
For: SYSTEM AND METHOD FOR REMOTELY BROWSING STRUCTURED DATA

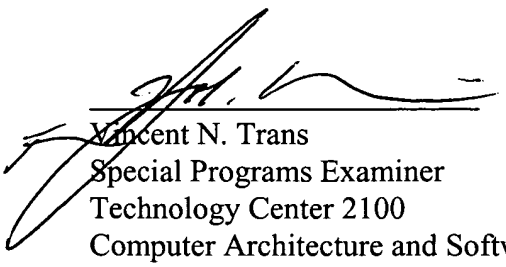
DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 13, 2003.

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

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

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



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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

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OCT - 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105-2482

In re Application of:
Frederic SPAEY, et al.
Application No. 09/942,880
Filed: August 31, 2001
For: SYSTEM AND METHOD FOR REMOTELY BROWSING STRUCTURED DATA

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

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

There is no statement included on the request that indicates whether or not the Applicant/Owner 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

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P.O. Box 1450
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

In re Application of:
Frederic SPAEY, et al.
Application No. 09/942,880
Filed: August 31, 2001
For: SYSTEM AND METHOD FOR REMOTELY BROWSING STRUCTURED DATA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed April 30, 2004.

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

The request is **GRANTED**.

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

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

cc: Mr. Antoine Wilhelmi
Creasoft
Place E. Flagey 7/2
B-1050 Brussels, Belgium

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

Greg T. Sueoka
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

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MAY 1 5 2002

Technology Center 2100

In re Application of:)
William C. Altmann)
Application No. 09/942,885) **DECISION ON REQUEST FOR**
Filed: August 29, 2001) **WITHDRAWAL AS ATTORNEY**
For: AUXILIARY DATA TRANSMITTED)
WITHIN A DISPLAY'S SERIALIZED
DATA STREAM

This is a decision on the Request To Withdraw from Representation filed February 26, 2002.

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

The request filed February 26, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

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

cc: Paul Hickman
OPPENHEIMER WOLFF & DONNELLY, LLP
1400 Page Mill Road
Palo Alto, CA 94304

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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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NIRAV D. PARIKH 25-LDP
OWENS-ILLINOIS, INC.
ONE SEAGATE
TOLEDO, OH 43666

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OFFICE OF PETITIONS

In re Application of :
Dan M. Hayes, et al. :
Application No. 09/942,899 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. 17783 USA :

This is a decision in response to a petition, filed May 12, 2003, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED** as moot in view of the argument contained in the "Request for Withdrawal of Petition to Revive Under 37 CFR 1.137(b), (c) and (f)" filed by facsimile transmission on October 3, 2003.

The request for a refund of the $1300 petition fee is GRANTED.

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

This application is being referred to Technology Center Art Unit 2100 for further prosecution.

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

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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APR 25 2006
OFFICE OF PETITIONS

In re Application of :
DRAZEN :
Application No. 09/942,904 : DECISION ON PETITION
Filed: August 30, 2001 : TO WITHDRAW
Attorney Docket No. 59704 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 10, 2005.

The 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 Christopher F. Regan on behalf of all attorneys of record who are associated with Customer No. 27975. The power of attorney was not granted to those practitioners associated with Customer Number 27975, rather the power was granted to individual registered practitioners. In as much as the practitioners appointed are also associated with Customer Number 27975, they have been withdrawn from the record. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to respond to a non-final Office action mailed October 18, 2005.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Mr. Mel Nehleber
HealthHeart, Inc.
525 S. North Lake Blvd.
Suite 1000
Altamonte Springs, FL 32701

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

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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APR 26 2006
OFFICE OF PETITIONS

In re Application of

DRAZEN
Application No. 09/942,904
Filed: August 30, 2001
Attorney Docket No. 59704

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APR 26 2006
OFFICE OF PETITIONS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 10, 2005.

The 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 Christopher F. Regan on behalf of all attorneys of record who are associated with Customer No. 27975. The power of attorney was not granted to those practitioners associated with Customer Number 27975, rather the power was granted to individual registered practitioners. In as much as the practitioners appointed are also associated with Customer Number 27975, they have been withdrawn from the record. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to respond to a non-final Office action mailed October 18, 2005.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Mr. Mel Nehleber
HealthHeart, Inc.
525 S. North Lake Blvd.
Suite 1000
Altamonte Springs, FL 32701

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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1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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APR 25 2006
OFFICE OF PETITIONS

In re Application of

DRAZEN
Application No. 09/942,904
Filed: August 30, 2001
Attorney Docket No. 59704

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 10, 2005.

The 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 Christopher F. Regan on behalf of all attorneys of record who are associated with Customer No. 27975. The power of attorney was not granted to those practitioners associated with Customer Number 27975, rather the power was granted to individual registered practitioners. In as much as the practitioners appointed are also associated with Customer Number 27975, they have been withdrawn from the record. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to respond to a non-final Office action mailed October 18, 2005.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Mr. Mel Nehleber
HealthHeart, Inc.
525 S. North Lake Blvd.
Suite 1000
Altamonte Springs, FL 32701

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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

STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVE., NW
SUITE 600
WASHINGTON, DC 20005

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JAN 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Cox, et al. :
Application No. 09/942,919 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. P513 DIV1 :

This is a decision on the papers styled "Petition in Response to Notice of Omitted Items in a Nonprovisinal Application" filed on October 12, 2001, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of August 31, 2001, including page 20 of the specification.

The application was filed on August 31, 2001. However, on September 21, 2001, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" that stated the application had been accorded a filing date, but page 20 of the specification appears to have been omitted.

In response, on October 12, 2001, the instant petition and a copy of page 20 of the specification were submitted. The papers were accompanied by copies of applicant's postcard receipt that acknowledges receipt of thirty-one (31) pages of specification on August 31, 2001. A review of the application file indicates the presence of thirty (30) pages of specification. It is assumed that page 20 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee paid for the papers filed on October 12, 2001, will be refunded to deposit account no. 19-0036.

This application will be returned to OIPE for further processing with a filing date of August 31, 2001, using the copy of page 20 of the specification, supplied on October 12, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

MORRISON & FOERSTER
2000 PENNSYLVANIA AVE, NW
SUITE 5500
WASHINGTON, DC 20006-1888

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OFFICE OF PETITIONS

In re Application of
Quackenbush, et al.
Application No. 09/942,954
Filed: August 31, 2001
Atty. Dkt. No. 424712000100
Title: SYSTEM AND METHOD FOR ONLINE VALUATION AND ANALYSIS

: DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 2, 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).

The above-identified application was filed August 31, 2001 without an executed oath or declaration and naming Chris Quackenbush, Derek Szot, Brian Pietrwicz, and William Pappas as joint inventors. Accordingly, on October 2, 2001, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Petitioner lacks items (1), (2), and (4) set forth above.

As to item (1), the petition lacks sufficient evidence that the legal representative of the deceased inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration.

The declaration of Kevin R. Spivak indicates that inventor Chris Quackenbush is deceased. Declarant further states that the United States Trust Company of New York and James J.

Dunne, III are the executors of the estate of the deceased inventor. Declarant further states G. William Haas is the legal representative of the executors of the estate of the deceased inventor.

While petitioner indicates an assignment and declaration were sent to legal representative G. William Haas, there is no indication that the legal representative received a complete copy of the application papers (specification, claims, drawings, and oath or declaration).

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 the patent. See, 37 CFR 1.42. However, petitioner is advised that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that *bona fide* effort has been made to present a copy of the application papers (specification, claims, drawings, and oath or declaration) to the legal representative of the deceased inventor. A copy of the application papers should be sent to the last known address of the legal representative of the deceased inventor, or, if the legal representative is represented by counsel, to the address of the legal representative's attorney. *See*, MPEP 409.03(d).

Any renewed petition must be supported by evidence that the legal representative of the deceased inventor inventor was presented with a copy of the application papers. In particular, the renewed petition should set forth the manner in which the application papers were presented to the legal representative of the deceased inventor. Petitioner may wish to provide the Office with copies of dated cover letters and, if available, copies of mailing receipts as evidence that the legal representative of the deceased inventor was presented with a copy of the application papers. If, after having been presented with the application papers, an oral refusal is made by the legal representative of the deceased inventor, this fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusal was made. Any written refusal to execute the oath or declaration by the legal representative of the deceased inventor should likewise be submitted. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

As to item (2), the declaration submitted herewith is unacceptable as it fails to comply with 37 CFR 1.63 and 1.64 has been presented. Specifically, the declaration fails to set forth the name, citizenship, address, and residence of the legal representative of the deceased inventor. While the declaration of Kevin R. Spivak indicates G. William Haas is the legal representative of the executors of the estate of the deceased inventor, G. William Haas is not so identified on the declaration submitted with the instant petition. Any renewed petition must be accompanied by a declaration executed by each available inventor and properly identifying the legal representative of the deceased inventor in

accordance with 37 CFR 1.63 and 1.64.

As to item (4), the petition fails to set forth the last known address of the legal representative of the deceased inventor. Any renewed petition must set forth the name and last known mailing address of the legal representative of the deceased inventor.

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

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

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

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

Telephone inquiries regarding this decision should be directed to 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
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 13

MORRISON & FOERSTER
2000 PENNSYLVANIA AVE, NW
SUITE 5500
WASHINGTON, DC 20006-1888

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Quackenbush, et al.
Application No. 09/942,954
Filed: August 31, 2001
Atty. Dkt. No. 424712000100
Title: SYSTEM AND METHOD FOR ONLINE VALUATION AND ANALYSIS

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 17, 2003.

The above-identified application was filed August 31, 2001 without an executed oath or declaration and naming Chris Quackenbush, Derek Szot, Brian Pietrwicz, and William Pappas as joint inventors. Accordingly, on October 2, 2001, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and surcharge. A petition under 37 CFR 1.47(a) was filed May 2, 2002 and dismissed August 16, 2002. The dismissal permitted applicant two (2) months in which to submit a renewed petition and indicated extensions of time were permissible under 37 CFR 1.136(a). On April 28, 2003, a Notice of Abandonment was mailed, while on March 17, 2003, a renewed petition was submitted along with a timely petition for an extension of time.

In view of the timely submitted petition for extension of time, the holding of abandonment is hereby **WITHDRAWN**, the Notice of Abandonment is hereby **VACATED**, and the petition for extension of time under 37 CFR 1.136(a) is hereby **GRANTED**.

In view of the **joinder** of the inventor, 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 related to this decision 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 2 4 2008

OFFICE OF PETITIONS

DANIEL J SWIRSKY
55 REUVEN ST.
BEIT SHEMESH 99544 IL ISRAEL

In re Patent No. 6,720,568 :
Issue Date: April 13, 2004 :
Application No. 09/942,968 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. FINAROV=5 :

This is a decision on the petition under 37 CFR 1.378(c), filed June 29, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 13, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the fats and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37CFR 1.378(c) was intentional, petitioner must notify the Office.

The Revocation/Appointment of Power of Attorney or Authorization of Agent filed June 29, 2008 has been accepted and made of record. A Notice of Acceptance is enclosed with this decision.

If petitioner desires to receive future correspondence regarding maintenance fees for the above patent a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted. See USPTO forms PTO/SB/47 and PTO/SB/125.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

The patent file is being forwarded to Files Repository.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/942,968	08/31/2001	Moshe Finarov	FINAROV=5

CONFIRMATION NO. 7643

POA ACCEPTANCE LETTER

24505
DANIEL J SWIRSKY
55 REUVEN ST.
BEIT SHEMESH, 99544
ISRAEL

OC000000032189486

Date Mailed: 09/19/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2008.

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

/dwilliams/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
09/942,968	08/31/2001	Moshe Finarov	FINAROV=5

CONFIRMATION NO. 7643

POWER OF ATTORNEY NOTICE

1444
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

Date Mailed: 09/19/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2008.

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

/dwilliams/

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

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JJGJR.: 06-04

Paper No: 8

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

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JUN 10 2004
OFFICE OF PETITIONS

In re Application of
Yee, et al
Application No. 09/942,976
Filed: 29 August, 2001
Attorney Docket No.: 220772009200

ON PETITION

This is a decision on the petition filed on 28 January, 2004, and, in light of allegations considered a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 9 October, 2001, with a reply due absent a request and fee for extension of time on or before Monday, 10 December, 2001;
- a result, the application was deemed abandoned after midnight 9 December, 2001;
- no Notice of Abandonment was mailed;
- in the instant petition, Petitioner alleges non-receipt of the Notice of Missing Parts, however, it is noted that: (a) at the time the Notice of Missing Parts was mailed, the mailing address was Townsend and Townsend and Crew, Two Embarcadero

Center/Eighth Floor, San Francisco, CA 94111-3834, and the Notice of Change of Address to Morrison & Foerster LLP, 755 Page Mill Road, Palo Alto, CA 94304-1018, did not occur until 26 February, 2002.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R.

---

[1] 35 U.S.C. §133 provides:

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

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

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

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

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

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

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

§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 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]

Because Petitioner did not file timely a Notice of Change of Address, and so the Notice of Missing Parts was properly mailed to Townsend and Townsend and Crew, with the result that Petitioner failed to timely reply to the Notice of Missing Parts, Petitioner fails to satisfy the requirements 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**.

This application is being retained in the Office of Petitions to address another matter.

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[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]

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

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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COMMISSIONER FOR PATENTS
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JJGJR.: 06-04

Paper No: 9

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JUN 16 2004

OFFICE OF PETITIONS

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

In re Application of
Yee, et al :
Application No. 09/942,976 : ON PETITION
Filed: 29 August, 2001 :
Attorney Docket No.: 220772009200 :

This is a decision on the petition filed on 28 January, 2004, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 9 October, 2001, with a reply due absent a request and fee for extension of time on or before Monday, 10 December, 2001;

- a result, the application was deemed abandoned after midnight 9 December, 2001;

- no Notice of Abandonment was mailed;

- because petition, Petitioner alleged non-receipt of the Notice of Missing Parts, the matter first was considered as a request to withdraw the holding of abandonment, however, that request was dismissed on 10 June, 2004, because--(a) at the time the Notice

of Missing Parts was mailed, the mailing address was Townsend and Townsend and Crew, Two Embarcadero Center/Eighth Floor, San Francisco, CA 94111-3834, and the Notice of Change of Address to Morrison & Foerster LLP, 755 Page Mill Road, Palo Alto, CA 94304-1018, did not occur until 26 February, 2002–an so Petitioner had failed to timely Notice the Office of a Change of Address.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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[1] 35 U.S.C. §133 provides:

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

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

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]

As of this writing, Petitioner has filed a petition (with fee authorization to Deposit Account 03-1952: $665.00) to revive under 37 C.F.R. §1.137(b) and the reply (fees (basic filing: $385.00, total claims: $486.00, independent claims: $473.00, and surcharge: $65.00) and oath/declaration), and made the statement of unintentional delay.

CONCLUSION

Petitioner has satisfied the regulatory requirements, and, therefore, the petition under 37 C.F.R. §1.137(b) hereby is **granted**.

This application is being forwarded to OIPE for further processing as required before being sent for examination 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

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr.:07-02
Paper 8

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Kurtaragi, et al.
Application No. 09/942,977
Filed: 30 August, 2001
Attorney Docket No.: SCEW 18.970

DECISION GRANTING REQUEST

This is a decision on the petition under 37 C.F.R. §1.10[1] filed on 24 July, 2002, following the request for a corrected filing receipt filed on 27 February, 2002.

The petition is **GRANTED**.[2]

The record demonstrates that:

- while Petitioner states that he does not have a copy of the Express Mail label,
- the Office Express Mail database does evidence that the official United States Postal Service (USPS) Express Mail deposit date for the USPS Express Mail tracking number EL639693967US was deposited with the USPS on 30 August, 2001, and delivered to the Office on 31 August, 2001, and,

---

[1] The regulations at 37 C.F.R. §1.10 provide in pertinent part:

§1.10 Filing of papers and fees by "Express Mail."

* * *

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

* * *

[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]

[2] Pursuant to petitioner's authorization, the petition fee ($110.00) is charged to Deposit Account 50-1290.

therefore, the application is entitled to a filing date of 30 August, 2001, under the provisions of 37 C.F.R. §1.10.

As to the instant application, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 30 August, 2001, and
- issue a corrected filing receipt specifying the filing date as that of 30 August, 2001.

Therefore, this application file is being forwarded to Office of Initial Patent Examination for assignment of the filing date of 30 August, 2001, and issuance of a corrected Filing Receipt reflecting that filing date for Application No. 09/942,977.

The application file will then be forwarded for processing as necessary.

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

USPTO Express Mail Information Database

Search results

Express Mail Number	*Zip*	*AcceptanceDate*	*AcceptanceTime*	*DeliveryDate*	*DeliveryTime*	*AttemptDate*	*AttemptTime*
EL639693967US	10118	08/30/2001	05:25 pm	08/31/2001	06:50 am	//	
		//		//		//	

USPTO's USPS Express Mail Information Database

EXPRESS MAIL
UNITED STATES POSTAL SERVICE

Express Mail Number: **EL639693967US**

Origin ZIP: 10118

Weight: 05 lbs. 13 ozs.

Postage Paid: $027.70

Date and Time* Package was accepted by USPS:	08/30/2001	05:25 pm
Attempted Delivery Date and Time:	//	
Actual Delivery Date and Time:	08/31/2001	06:50 am

***Also referred to as "Date In"**

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Saturday, July 20, 2002 12:55 PM

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SEP 25 2006

OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of	:	
Ken Kutaragi et al.	:	
Application No. 09/942,977	:	
Filed: August 30, 2001	:	DECISION ON PETITION
Attorney Docket No. 100809-16280 (SCEW 18.970	:	UNDER 37 C.F.R. §1.137(B)
Title: METHOD AND SYSTEM FOR MONITORING UTILIZING CONDITION OF CONTENTS, COMPUTER PROGRAM AND RECORDING MEDIUM	:	

This is a decision on the petition filed June 23, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed October 5, 2005, which set a shortened statutory period for reply of three months. An after-final response was received on January 5, 2006, and an advisory action was mailed on January 27, 2006. No additional extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained,

1 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 § 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.

and no further responses were received. Accordingly, the above-identified application became abandoned on January 6, 2006.

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further included a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 and the associated fee.

No terminal disclaimer is required. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The concurrently submitted amendment shall serve as the required submission.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the RCE can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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UNITED STATES PATENT AND TRADEMARK OFFICE
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JJGJr.:07-02
Paper 6

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

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OFFICE OF PETITIONS

In re Application of
Kutaragi, et al.
Application No. 09/942,978
Filed: 30 August, 2001
Attorney Docket No.: SCEW 18.968

DECISION GRANTING REQUEST

This is a decision on the petition under 37 C.F.R. §1.10[1] filed 10 July, 2002, and the request for a corrected filing receipt filed on 17 June, 2002.

The petition is **GRANTED**.[2]

The record demonstrates that:

- while Petitioner states that he does not have a copy of the Express Mail label,
- the Office Express Mail database does evidence that the official United States Postal Service (USPS) Express Mail deposit date for the USPS Express Mail tracking number EL639693967US was deposited with the USPS on 30 August, 2001, and delivered to the Office on 31 August, 2001, and,

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[1] The regulations at 37 C.F.R. §1.10 provide in pertinent part:

§1.10 Filing of papers and fees by "Express Mail."

* * *

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

* * *

[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]

[2] Pursuant to petitioner's authorization, the petition fee ($110.00) is charged to Deposit Account 50-1290.

therefore, the application is entitled to a filing date of 30 August, 2001, under the provisions of 37 C.F.R. §1.10.

As to the instant application, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 30 August, 2001, and
- issue a corrected filing receipt specifying the filing date as that of 30 August, 2001.

Therefore, this application file is being forwarded to Office of Initial Patent Examination for assignment of the filing date of 30 August, 2001, and issuance of a corrected Filing Receipt reflecting that filing date for Application No. 09/942,978.

The application file will then be forwarded for processing as necessary.

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

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Paper 8

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OFFICE OF PETITIONS

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of
Matsuoka
Application No. 09/942,979
Filed: 30 August, 2001
Attorney Docket No.: FUJG 18.949

DECISION GRANTING REQUEST

This is a decision on the request for a corrected filing receipt (and treated nominally as a petition under 37 C.F.R. §1.10[1]) filed on 17 June, 2002.

The petition request is **GRANTED**.[2]

The record demonstrates that:

- while Petitioner states that he does not have a copy of the Express Mail label,
- the Office Express Mail database does evidence that the official United States Postal Service (USPS) Express Mail deposit date for the USPS Express Mail tracking number EL639693967US was deposited with the USPS on 30 August, 2001, and delivered to the Office on 31 August, 2001, and,

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[1] The regulations at 37 C.F.R. §1.10 provide in pertinent part:

§1.10 Filing of papers and fees by "Express Mail."

* * *

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

* * *

[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]

[2] Pursuant to petitioner's authorization, the petition fee ($110.00) is charged to Deposit Account 50-1290.

therefore, the application is entitled to a filing date of 30 August, 2001, under the provisions of 37 C.F.R. §1.10.

As to the instant application, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 30 August, 2001, and
- issue a corrected filing receipt specifying the filing date as that of 30 August, 2001.

Therefore, this application file is being forwarded to Office of Initial Patent Examination for assignment of the filing date of 30 August, 2001, and issuance of a corrected Filing Receipt reflecting that filing date for Application No. 09/942,979.

The application file will then be forwarded for processing as necessary.

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
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Paper 8

KATTEN MUCHIN ZAVIS ROSENMAN
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OFFICE OF PETITIONS

In re Application of :
M :
Application No. 09/942,980 :
Filed: 30 August, 2001 :
Attorney Docket No.: FUJG 18.948 :

DECISION GRANTING REQUEST

This is a decision on the petition under 37 C.F.R. §1.10[1] filed on 24 July, 2002, and the request for a corrected filing receipt filed on 27 February, 2002.

The petition is GRANTED.[2]

The record demonstrates that:

- while Petitioner states that he does not have a copy of the Express Mail label,
- the Office Express Mail database does evidence that the official United States Postal Service (USPS) Express Mail deposit date for the USPS Express Mail tracking number EL639693967US was deposited with the USPS on 30 August, 2001, and delivered to the Office on 31 August, 2001, and,

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[1] The regulations at 37 C.F.R. §1.10 provide in pertinent part:

§1.10 Filing of papers and fees by "Express Mail."

* * *

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

* * *

[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]

[2] Pursuant to petitioner's authorization, the petition fee ($110.00) is charged to Deposit Account 50-1290.

therefore, the application is entitled to a filing date of 30 August, 2001, under the provisions of 37 C.F.R. §1.10.

As to the instant application, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 30 August, 2001, and
- issue a corrected filing receipt specifying the filing date as that of 30 August, 2001.

Therefore, this application file is being forwarded to Office of Initial Patent Examination for assignment of the filing date of 30 August, 2001, and issuance of a corrected Filing Receipt reflecting that filing date for Application No. 09/942,980.

The application file will then be forwarded for processing as necessary.

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

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OFFICE OF PETITIONS

In re Application of	:	
Galperin et al.	:	
Application Number: 09/942983	:	ON PETITION
Filing Date: 08/30/2001	:	
Attorney Docket Number:	:	
EXP.046A	:	

This is a decision in reference to the petitions filed on 19 September, 2007, which are treated as (a) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a) in that a person sought to be added as a named inventor will not sign the statement of lack of deceptive intent; (b) a petition under 37 CFR 1.47(a) with regard to the person sought to be added a named inventor; and (c) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 which requires that a named inventor execute a supplemental declaration.

The petition is **DISMISSED**.

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), 1.183 and 1.48," 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).

On 30 August, 2001, the above-identified application was filed. On 3 December, 2001, a declaration in compliance with 37 CFR 1.63 was filed, naming Yuri Galperin, Vladimir Fishman, and William E. Eginton as joint inventors.

On 19 September, 2007, the present petitions were filed. Petitioners request that Charles L. Jones, III be added as a named inventor under 37 CFR 1.48(a). Petitioners further request

waiver under 37 CFR 1.183 of 1.48(a) in as much as Jones refuses to sign the statement of lack of deceptive intent and the declaration under 37 CFR 1.63. A petition under 37 CFR 1.47(a) is requested in that the inventor sought to be added, Jones, refuses to sign the declaration under 37 CFR 1.63 naming the inventive entity. Lastly, petitioners also request waiver under 37 CFR 1.183 of 1.64 in that a named inventor, William Eginton, refuses to execute the supplemental declaration naming him as a joint inventor along with Yuri Galperin, Vladimir Fishman, and Charles L. Jones, III.

Petition Under 37 CFR 1.183 to Waive 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

With regard to the request to add Charles L. Jones, III, petitioners have provided the written consent of the assignee, and state that Jones' address is unknown and he could not be reached by email.

The petition lacks items (1) and (2).

With regard to item (1), suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

In order to request waiver of the rules with regard to 37 CFR 1.48(a), petitioner must show that Jones refused or could not be located to sign the statement of lack of deceptive intent.

Petitioners should send or give the statement of lack of deceptive intent to Jones along with the application, as described in the paragraphs pertaining to 37 CFR 1.47(a), *infra*, in order to show Jones has refused or is unavailable to sign the statement of lack of deceptive intent.

Petitioners may show proof that a copy of the supplemental declaration was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the supplemental declaration 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.

With regard to item (2), as discussed *infra*, the declaration is defective in that it does not include the residence and mailing address for all of the inventors as required by 37 CFR 1.63.

Petition Under 37 CFR 1.47(a).

Petitioners state, via the declaration of Laura Meltzer, executive assistant, that she telephoned Jones at his last known mobile phone number, but that he did not answer the phone and did not return any phone calls.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

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

The petition lacks item (1), (2), and (5).

In regards to item (1), petitioners have not provided proof that the non-signing inventor was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Specifically, a showing must be provided that a copy of the application (specification, including

[1] MPEP 409.03(d).

the claims, drawings, if any, and the declaration) was provided to the non-signing inventor or his attorney, asking that the inventor review the application papers and sign and return the declaration.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details. In this case, petitioners should also send the copy of the statement of lack of deceptive intent pursuant to 37 CFR 1.48(a), as stated above.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit 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 fact.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

With regard to item (2), the oath or declaration is insufficient because it does not list the residence city and state or city and foreign country for Eginton and Jones as required by 37 CFR 1.63. The oath or declaration must identify the city and either state or foreign country of residence of each inventor.

A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by the inventor to whom the error or deficiency

relates is required.[2] As all of the signing inventors must sign, on behalf of a non-signing inventor under 37 CFR 1.47(a), a new declaration, containing the omitted residence and signed by all of the signing inventors on behalf of themselves and the non-signing inventor, must be filed with a renewed petition.[3]

As such, petitioners should provide a new oath or declaration, signed by all of the signing inventors on behalf of themselves and the non-signing inventors, including the citizenship, residence, and mailing address of all of the inventors.

With regard to item (5), petitioners do not state the last known address of the non-signing inventor. An application filed pursuant to 37 CFR 1.47 must state the last known address of the nonsigning inventor. That address should be the last known address at which the inventor customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the nonsigning inventor. Inasmuch as a nonsigning inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the nonsigning inventor may be reached should also be given.[4]

If necessary, petitioner may wish to consider telephone or Internet searches in order to determine a last known address for Jones.

Petition Under 37 CFR 1.183 to Waive 37 CFR 1.64.

With regard to the petition requesting waiver of the requirement that William Eginton sign the supplemental declaration under 37 CFR 1.63, this application bears an original Declaration executed by joint inventor Eginton, and thus, the provisions of 37 CFR 1.47 do not apply with regard to Eginton's signature. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

As stated *supra*, suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioner has not sufficiently established any special circumstances of equities

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[2] 37 CFR 1.67(a)(2).

[3] See MPEP 409.03(A).

[4] MPEP 409.03(e).

that would require suspension of the rules in the interests of justice.

In her declaration of facts, Laura Meltzer states that she attempted to contact Eginton by e-mail, but did not receive a response and has no last known address for him.

The petition must be dismissed because petitioners have not shown proof that the non-signing inventor acknowledged receipt of the emailed documents and was able to read them. Petitioners are reminded that 37 CFR 1.63 requires the inventor to state that he or she has reviewed and understands the contents of the application.

The transmission of documents via Email, while a common practice, can be problematic. Transmission and receipt of documents-whether in image, word-processing, spreadsheet or other form-can be affected by differences in software generation between the sender and recipient(s), and other interferences include but are not limited to sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis to presume that an Emailed document was in a form that can be read and comprehended.

Petitioners may show proof that a copy of the supplemental declaration was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the supplemental declaration 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.

Petitioners should send or give a copy of the supplemental declaration to Eginton at his last known address. If necessary, petitioner may wish to consider telephone or Internet searches in order to determine an address for Eginton. As stated *supra* in the section pertaining to 37 CFR 1.47(a), a copy of the declaration naming the actual inventors should be sent or given to Eginton. If Eginton refuses to sign the declaration or cannot be found, petitioners may show proof of refusal or diligent efforts to contact Eginton as stated above.

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 related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Galperin et al.	:	
Application Number: 09/942983	:	ON PETITION
Filing Date: 08/30/2001	:	
Attorney Docket Number:	:	
EXP.046A	:	

This is a decision in reference to the petitions filed on April 30, 2008, which are treated as (a) a renewed petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a) in that a person sought to be added as a named inventor will not sign the statement of lack of deceptive intent; (b) a petition under 37 CFR 1.47(a) with regard to the person sought to be added a named inventor; and (c) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 which requires that a named inventor execute a supplemental declaration.

The petition is again **DISMISSED**.

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), 1.183 and 1.48," 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).

On August 30, 2001, the above-identified application was filed. On December 3, 2001, a declaration in compliance with 37 CFR 1.63 was filed, naming Yuri Galperin, Vladimir Fishman, and William E. Eginton as joint inventors.

On September 19, 2007, the initial petitions were filed. Petitioners request that Charles L. Jones, III be added as a

named inventor under 37 CFR 1.48(a). Petitioners further request waiver under 37 CFR 1.183 of 1.48(a) in as much as Jones refuses to sign the statement of lack of deceptive intent and the declaration under 37 CFR 1.63. A petition under 37 CFR 1.47(a) is requested in that the inventor sought to be added, Jones, refuses to sign the declaration under 37 CFR 1.63 naming the inventive entity. Lastly, petitioners also request waiver under 37 CFR 1.183 of 1.64 in that a named inventor, William Eginton, refuses to execute the supplemental declaration naming him as a joint inventor along with Yuri Galperin, Vladimir Fishman, and Charles L. Jones, III.

On October 26, 2007, the petitions were dismissed.

On April 30, 2008, the subject renewed petition was filed. Petitioners again request waiver of 37 CFR 1.48(a) in that Jones refuses to sign the statement of lack of deceptive intent and the declaration under 37 CFR 1.63. Petitioners also again request consideration under 37 CFR 1.47(a) in that the inventor sought to be added, Jones, refuses to sign the declaration under 37 CFR 1.63 naming the inventive entity. Petitioners further state that inventor William Eginton has now signed the supplemental declaration naming him as a joint inventor along with Yuri Galperin, Vladimir Fishman, and Charles L. Jones, III.

In support, petitioners have provided a declaration by petitioner's registered patent practitioner, Ted M. Cannon, in which attorney Cannon states that he repeatedly sent the application as filed and the statement of lack of deceptive intent to Jones, but that no response was received. Copies of the cover letters transmitting the application and statement of lack of deceptive intent to Jones' last known address have also been included.

Petition Under 37 CFR 1.183 to Waive 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

With regard to the request to add Charles L. Jones, III, petitioners have provided the written consent of the assignee, and state that Jones' address is unknown and he could not be reached by email.

The petition lacks item (2).

With regard to item (2), as discussed *infra*, the declaration is defective in that it does not include the residence and mailing address for all of the inventors as required by 37 CFR 1.63.

Petition Under 37 CFR 1.47(a).

As stated above, petitioners have provided a statement from registered patent practitioner Ted M. Cannon stating that he has sent multiple copies of the application to Jones, who has failed to sign and return the declaration. Copies of the cover letter transmitting the application to Jones have also been provided.

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 (2).

With regard to item (2), the declaration submitted with the present renewed petition is defective because it does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or a supplemental oath or declaration.

Additionally, the the oath or declaration is insufficient because it does not list the complete mailing address for It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

Specifically, the residence and mailing address for joint inventor Galperin has been omitted or obscured such that a portion of the city name is not readable.[1] Additionally, the ZIP Code has been omitted.

Petitioner should submit either a supplemental declaration in accordance with 37 CFR 1.64 and 1.67, naming all of the inventors and signed by joint inventor Galperin containing the residence and mailing address, or an Application Data Sheet in compliance with 37 CFR 1.76 to correct the residence and mailing address for joint inventor Galperin.

Petition Under 37 CFR 1.183 to Waive 37 CFR 1.64.

As previously signing inventor Eginton has signed the supplemental declaration, there is no need for a petition under 37 CFR 1.183 to waive 1.64. However, as the declaration is still defective has stated above, the decision will be held in abeyance pending submission of a supplemental oath or declaration or Application Data Sheet to correct the residence and mailing address for inventor Galperin.

The petition is therefore dismissed without prejudice to reconsideration pending submission of a supplemental oath or declaration or an Application Data Sheet correcting the above-referenced matters.

It is noted that petitioner has submitted fees for a four (4)-month petition for extension of time as well as for the petitions under 37 CFR 1.183, 1.47(a), and 1.48. As the fees for the petitions under 37 CFR 1.183, 1.47(a), and 1.48 were previously paid, the duplicate payments are unnecessary and will be credited

[1] The original oath or declaration lists the city as "Oak Hill." The present declaration lists the city as "Oak" with an apparent obliteration of the remainder of the city name and the ZIP Code.

to counsel's deposit account, as authorized in the subject petition.

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

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

By FAX: (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 related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DRW Aug-08

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

COPY MAILED

AUG 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Galperin et al.	:	
Application Number: 09/942983	:	ON PETITION
Filing Date: 08/30/2001	:	
Attorney Docket Number:	:	
EXP.046A	:	

This is a decision in reference to the petitions filed on July 9, 2008, which are treated as (a) a renewed petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a) in that a person sought to be added as a named inventor will not sign the statement of lack of deceptive intent, and (b) a petition under 37 CFR 1.47(a) with regard to the person sought to be added a named inventor.

The petition is **GRANTED**.

On August 30, 2001, the above-identified application was filed. On December 3, 2001, a declaration in compliance with 37 CFR 1.63 was filed, naming Yuri Galperin, Vladimir Fishman, and William A. Eginton as joint inventors.

On September 19, 2007, the initial petitions were filed. Petitioners request that Charles L. Jones, III be added as a named inventor under 37 CFR 1.48(a). Petitioners further request waiver under 37 CFR 1.183 of 1.48(a) in as much as Jones refuses to sign the statement of lack of deceptive intent and the declaration under 37 CFR 1.63. A petition under 37 CFR 1.47(a) is requested in that the inventor sought to be added, Jones, refuses to sign the declaration under 37 CFR 1.63 naming the inventive entity.[1]

[1] In the initial petition, petitioners also requested waiver under 37 CFR 1.183 of 1.64 in that a named inventor, William Eginton, refused to execute the supplemental declaration naming him as a joint inventor along with Yuri Galperin, Vladimir Fishman, and Charles L. Jones, III. On April 30, 2008, however, a declaration naming the correct inventive entity signed by Eginton was provided.

Renewed petitions were filed on April 30, 2008, but were dismissed because the declaration was defective in that it does not include the residence and mailing address for all of the inventors.

A renewed petition was filed on July 9, 2008, and a supplemental Application Data Sheet (ADS) was filed on August 21, 2008, listing the residence city and state or city and foreign country and mailing address for all inventors.

Petition Under 37 CFR 1.48(a) and Under 37 CFR 1.183 to Waive 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

With regard to joint inventor Charles L. Jones, III, petitioners have shown, via the statement of registered patent practicioner Ted M. Cannon, that a copy of the application and the statement of lack of deceptive intent and on the declaration under 37 CFR 1.63 and 1.67, were sent to Jones' last known address, but were returned as undeliverable. A new address for Jones was located, and a copy of the application, declaration, and statement of lack of deceptive intent were sent, but the inventor failed to return the statement of lack of deceptive intent and the declaration.

Petitioners have also provided statements of consent of the assignee to the addition of Charles L. Jones, III as an inventor.

Petitioners have provided, with the renewed petition, an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47, as well as an ADS in compliance with 37 CFR 1.76.;

In view of the efforts recounted in the petition to obtain the signature of Charles L. Jones, III, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent.

As such, the petition under 37 CFR 1.183 to waive 1.48 is granted with respect to the addition of Charles L. Jones, III, as a named inventor.

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.

Petitioners have shown that the non-signing inventor, Charles L. Jones, III, has constructively refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established that a copy of the application was sent to the non-signing inventor's last known address. The non-signing inventor, however, has failed to return an executed declaration naming him as a joint inventor along with Yuri Galperin, Vladimir Fishman, and William A. Eginton.

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

It is noted that the Supplemental Application Data Sheet filed on August 21, 2008, appears to miscaption inventor Jones' address as "44*5*70 Old Post Road." A new supplemental ADS should be filed to correct this error.

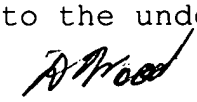
As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration filed on April 30, 2008. Notice

of the filing of this application will also be published in the *Official Gazette*.

The inventorship will be as stated in the enclosed corrected Filing Receipt.

The application is referred to Technology Center Art Unit 3691 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-08

Charles L. Jones, III
4570 Old Post Road
Charlestown RI 02813-2560

COPY MAILED

AUG 2 8 2008

OFFICE OF PETITIONS

In re Application of
Galperin et al.
Application No. 09/942,983
Filed: August 30, 2001
For: METHOD AND APPARATUS FOR DETERMINING A PREPAYMENT SCORE FOR AN INDIVIDUAL APPLICANT

Dear Mr. Jones:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/942,983	08/30/2001	3691	1953	EXP.046A	20	2

CONFIRMATION NO. 7664

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 08/28/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Yuri Galperin, Oak Hill, VA;
Vladimir Fishman, Farmington, CT;
William A. Eginton, Leesburg, VA;
Charles L. Jones III, Charlestown, RI;

Power of Attorney: The patent practitioners associated with Customer Number 20995

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/228,954 08/31/2000 *
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 10/02/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/942,983**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method and apparatus for determining a prepayment score for an individual applicant

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

Greg T. Sueoka
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

MAIL

AUG 2 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/943,029

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

KENNETH WIEDER
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 2600

Paul Hickman
OPPENHEIMER WOLFF & DONNELLY, L.L.P.
1400 Page Mill Road
Palo Alto, CA 94304

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

MAWAHEB M. EL-NAGGAR
AHMED MOUSA
5 FOX GLOVE CT.
WYNANTSKILL, NY 12198

COPY MAILED

JUL 16 2003

OFFICE OF PETITIONS

In re Application of :
Mawaheb M. El-Naggar, et al. :
Application No. 09/943,048 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 10, 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 July 11, 2002.

A review of the record indicates that the Petition fee was inadvertently charged twice. Therefore, a refund of $650 for the petition fee will be credited to petitioner's credit card account.

Accordingly, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). The $380 extensions of time submitted with the petition on June 30, 2003 and July 1, 2003 were subsequent to the maximum extendable period for reply, the fees are unnecessary and will be credited to petitioner's credit card account.

The statement claiming small entity status in accordance with 37 CFR 1.27 embodied in the petition under 37 CFR 1.137(b) has been made of record and small entity status has been accorded.

The Change of Correspondence Address has been accepted and recorded.

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

The application file is being forwarded to Technology Center 1600, Art Unit 1614 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ARLEN L. OLSEN
SCHMEISER, OLSEN & WATTS
3 LEAR JET LANE
SUITE 201
LATHAM NY 12110

COPY MAILED

APR 25 2005

OFFICE OF PETITIONS

In re Application of
El-Naggar, et al.
Application No. 09/943,048
Filed: August 30, 2001
Attorney Docket No. MOUS-4125

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2005 (certificate of mailing date January 27, 2005), to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to properly and timely reply to the final Office action mailed June 29, 2004. A amendment after final, filed October 4, 2004 (certificate of mailing date September 28, 2004), failed to place this application in prima facie condition for allowance, as stated in the January 12, 2005 Advisory Action. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on September 30, 2004. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

The Notice of Appeal filed January 31, 2005 has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The file is being forwarded to Technology Center A.U. 1614 to await receipt of the appeal brief.

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

E. Shirene Willis

E. Shirene Willis
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
www.uspto.gov

#3

NOV 2 1 2001

In re Application of Robert W. Callahan et al. Serial Number: 09/943,053 Filed: August 30, 2001 For: ELECTROCHEMICAL CELL INCORPORATING POLYMER MATRIX MATERIAL	:	DECISION ON PETITION

This is in response to the petition filed August 30, 2001, requesting that the above-identified application be granted Special Status under Section 708.02 (VI) of the MPEP.

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

Richard V. Fisher

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

Ralph J. Crispino
Reveo, Inc.
85 Executive Blvd.
Elmsford, NY 10523

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAILED
FROM DIRECTORS OFFICE

JUN 27 2005

TECHNOLOGY CENTER 3600

James M. Stover
NCR Corporation
1700 South Patterson Blvd, WHQ4
Dayton, OH 45479

In re Application of: Paul H. Phibbs, Jr. .	PETITION TO WITHDRAW
Application No. 09/943,060	FINALITY OF ACTION
Filed: August 30, 2001	UNDER
Attorney Docket No.: 9391	37 C.F.R. 1.181
For: CAPITAL ALLOCATION IN A NET INTEREST REVENUE IMPLEMENTATION FOR FINANCIAL PROCESSING IN A RELATIONAL DATABASE MANAGEMENT SYSTEM	

This is in response to applicant's petition filed on May 18, 2005 to have the Finality of the November 18, 2004 Office action withdrawn.

The petition is **GRANTED.**

The petitioner argues that the November 18, 2004 Office action failed to indicate either on the cover page or within the body of the action that the action was in fact being made final. On March 16, 2005 petitioner filed an amendment which was treated as an amendment after final and the examiner responded with an Advisory action on April 5, 2005. Additionally the petitioner is requesting a refund of any fees charged for the three month extension of time required to file the Notice of Appeal, since these fees were only necessary due to the improper listing of the November 18, 2004 Office action as Final.

A review of the file record indicates that the Office action dated November 18, 2004 was intended to be a Non-Final Office action but was improperly recorded as a Final action. This resulted in the March 16, 2005 amendment being treated as an After-Final amendment.

Accordingly, the petition is granted with the Finality of the November 18, 2004 Office action being withdrawn. The amendment dated March 16, 2005 will be formally entered and the application forwarded to the examiner for prompt action on the amendment. As for the refund of fees, petitioner may file a separate letter

requesting the refund of the extension of times fees referred to in the petition.

Summary: ***Petition GRANTED***

John J. Love, Director
Patent Technology Center 3600
(571)-272-5250

JJL/rpo: 6/06/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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IBM ST-SVL
SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD, SUITE 406
PALO ALTO, CA 94303

COPY MAILED

MAR 31 2009

OFFICE OF PETITIONS

In re Application of
Aalim **LAKHANI, et al.**
Application No. 09/943,061
Filed: August 30, 2001
Attorney Docket No.
CA920000056US1/2178P

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of August 22, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 23, 2008. *See* MPEP 1214.06.

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 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), fee of $810 and

the submission required by 37 CFR 1.114, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2161 for appropriate action by the Examiner in the normal course of business on the reply received on November 4, 2008.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 12

KILLWORTH GOTTMAN HAGAN & SCHAEFF
SUITE 500
ONE DAYTON CENTER
DAYTON, OH 45402-2023

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AUG 07 2003

OFFICE OF PETITIONS

In re Application of :
Ross Alexander Saunders et al :
Application No. 09/943,077 : DECISION GRANTING PETITION
Filed: August 30, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SOI 0002 PA :

This is a decision on the response filed by facsimile transmission on July 23, 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 November 20, 2001. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 13, 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 2877 for examination in due course.

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

Paper No. 10

KILLWORTH GOTTMAN HAGAN & SCHAEFF
SUITE 500
ONE DAYTON CENTER
DAYTON, OH 45402-2023

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JUL 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Ross Alexander Saunders et al :
Application No. 09/943,077 : DECISION GRANTING PETITION
Filed: August 30, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SOI 0002 PA :

This is a decision on the petition, filed May 12, 2003, 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 filng. 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 WanLaymon 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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Saunders et al.	:	
Application No. 09/943,077	:	
Filed: August 30, 2001	:	DECISION ON PETITION
Atty Docket No.:	:	
SOI 0002 PA	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed April 5, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed September 22, 2003. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 23, 2003. A Notice of Abandonment was mailed February 10, 2004.

With the instant petition Applicant has submitted the issue fee.

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Roche Diagnostics Corporation
9115 Hague Road, Bldg. D
P.O. Box 50457
Indianapolis, IN 46250-0457

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MAR 0 4 2004

OFFICE OF PETITIONS

In re Application of

Effenhauser, et al.

Application No. 09/943,080

Filed: August 30, 2001

Attorney Docket No. RDID01056US

DECISION ON PETITION

This is a decision on the under 37 CFR 1.137(b) filed February 17, 2004. The petition will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **granted**.

This application was held abandoned on September 7, 2003, after no reply was received to the non-final Office action on June 6, 2003, that set a three month period for reply. No reply was believed to have been received within the allowed period and the application became abandoned on September 7, 2003. A Notice of Abandonment was mailed on December 30, 2003.

Petitioner has provided a copy of an "Amendment and Request for Extension of Time" that was responsive to the non-final Office action. The "Amendment and Request for Extension of Time" included a certificate of mailing dated December 5, 2003. With the extension of time within the third month, the amendment of December 5, 2003, is timely filed. Accordingly, the holding of abandonment was imposed improperly and is withdrawn as of the mailing date of this decision.

The petition fee of $1330.00 will be refunded, in due course.

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

Further questions regarding this decision should be addressed to the undersigned at (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Michael Chan
Intellectual Property Section
NCR Corporation
1700 South Patterson Blvd.
Dayton OH 45479-0001

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FEB 0 5 2003

OFFICE OF PETITIONS

In re Application of
Richard Cudd, Matthew A. Ward, Roderick J.M. Macleod, and Michael Waller
Application No. 09/943,113
Filed: August 30, 2001
Attorney Docket No. 9494.00
Title: DOWNLOADING AND UPLOADING DATA IN INFORMATION NETWORKS

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

This is in response to the petition under 37 C.F.R. 1.47(a)[1], filed March 13, 2002.

The petition under 37 C.F.R. §1.47(a) is GRANTED.

The above-identified application was filed on August 30, 2001, identifying Richard Cudd, Matthew A. Ward, Roderick L.M. Macleod, and Michael Waller as joint inventors. On October 3, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee), the surcharge associated with the late filing of an oath or declaration, and a declaration executed only by Richard Cudd. To make timely this

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

reply, a four-month extension of time has been charged to petitioner's Deposit Account, as authorized in the petition[2].

Accompanying the petition was a statement from the attorney of record, Michael Chan, a copy of the application, a declaration of facts signed by the attorney of record, a declaration of facts signed by the attorney of record's assistant, a listing of the last-known address for each non-signing inventor, copies of the cover letters sent to the non-signing inventors which requested that they sign the declaration, and copies of the non-signing inventors employment agreements which establish that each of them was required to assign any inventions to their employers.

The submitted documents submitted establish that a copy of the application was sent to each of the non-signing inventors, and they have failed to respond.

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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2100 for further processing.

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

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

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

2 Petitioner has requested a three-month extension of time, when a four-month extension was required. The Notice was mailed on October 3, 2002, and set a 2 month period for reply. Hence, the reply was due on December 3, 2001. Three months from December 3, 2001 is March 3, 2002. The reply contains a certificate of mailing dated March 4, 2002.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD
DAYTON, OH 45479-0001

COPY MAILED

JUN 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Cudd, et al. :
Application No. 09/943,118 : DECISION REFUSING STATUS
Filed: August 30, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: 9265.00 :
For: DOWNLOADING AND UPLOADING DATA:
IN INFORMATION NETWORKS :

This decision is in response to the petition under 37 CFR 1.47(a), filed March 14, 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).

The above-identified application was filed August 30, 2001 without an executed oath or declaration and naming Richard Cudd, Matthew A. Ward, Rodrick J. M. MacLeod, and Michael Waller as joint inventors. Accordingly, on October 4, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). The petition lacks sufficient evidence that the non-signing inventors cannot be reached, were ever presented with a copy of the application papers (specification, claims, drawings, and oath or declaration), or, having been presented with the application papers, refused to sign the oath or declaration.

The declaration of Christine Sheppard states that the application papers were forwarded to the non-signing inventors and that the non-signing inventors failed to respond.

Petitioner is advised that before a refusal to sign or oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers to the non-signing inventor. A copy of the application

papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. *See*, MPEP 409.03(d).

While the declaration of Christine Sheppard states the application papers were forwarded to the non-signing inventors, the copies of the letters sent to the inventors do not indicate that a complete copy of the application was presented. The letters merely indicate that a declaration, assignment, and self-addressed envelope were presented.

Any renewed petition must be supported by evidence that each inventor was presented with a complete copy of the application papers (specification, claims, drawings, and oath or declaration). In particular, the renewed petition should set forth the manner in which the application papers were presented to the non-signing inventors. Petitioner may wish to provide the Office with copies of dated cover letters wherein it indicates the enclosure of the application papers (specification, claims, drawings, and oath or declaration), and, if available, copies of mailing receipts as evidence that the non-signing inventors were presented with a copy of the application papers. If, after having been presented with the application papers, an oral refusal is made by a non-signing inventor, this fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusal was made. Any written refusal to execute the oath or declaration by the inventor should likewise be submitted. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

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

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

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

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

Telephone inquiries related to this decision 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
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

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SEP 0 6 2002

OFFICE OF PETITIONS

MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD
DAYTON, OH 45479-0001

In re Application of :
Cudd, et al. :
Application No. 09/943,118 : DECISION GRANTING STATUS
Filed: August 30, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: 9265.00 :
For: DOWNLOADING AND UPLOADING DATA :
IN INFORMATION NETWORKS :

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed September 4, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventors Matthew A. Ward, Michael Waller, and Roderick Macleod have refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision 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
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MATTHEW A. WARD
FLAT 2
111-115 CAMBRIDGE GARDENS
LONDON W10 6JB
ENGLAND

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Cudd, et al. :
Application No. 09/943,118 : LETTER
Filed: August 30, 2001 :
Attorney Docket No.: 9265.00 :
For: DOWNLOADING AND UPLOADING DATA:
IN INFORMATION NETWORKS :

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD
DAYTON, OH 45479-0001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RODERICK MACLEOD
21 KERRINGTON COURT
148 UXBRIDGE ROAD
LONDON W12 8AA
ENGLAND

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Cudd, et al. :
Application No. 09/943,118 : LETTER
Filed: August 30, 2001 :
Attorney Docket No.: 9265.00 :
For: DOWNLOADING AND UPLOADING DATA:
IN INFORMATION NETWORKS :

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD
DAYTON, OH 45479-0001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL WALLER
1 HAYES CRESCENT
LONDON NW11 0DG
ENGLAND

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Cudd, et al. :
Application No. 09/943,118 : LETTER
Filed: August 30, 2001 :
Attorney Docket No.: 9265.00 :
For: DOWNLOADING AND UPLOADING DATA:
IN INFORMATION NETWORKS :

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD
DAYTON, OH 45479-0001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

4-6-06

Patent No. : 6,927,277
Inventor(s) : Gary Mell Bates, et. al.
Issued : August 9, 2005
Title : METHOD FOR ISOLATING POLYMER RESIN FROM SOLUTION
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

In view of the foregoing, your request is hereby denied.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 305-8309

DAVID A. Fox
Cantor Colburn LLP
55 Griffin Road South
Bloomfield, Connecticut 06002

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 06-06

Paper No: 16

JOHN B. YATES III
GE ADVANCED MATERIALS
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of:
Bates, et al.
Patent No.: 6,927,277
Issue Date: 9 August, 2005
Application No. 09/943,121
Filed: 30 August, 2001
Attorney Docket No.: 8CN-8817A

ON PETITION

This is a decision on the request filed on 27 March, 2006, under 37 C.F.R. §3.81 wherein Petitioner seeks the have the Office accept the correction of the instant patent to reflect issuance in the name of the assignee, and considered under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183 (for waiver) and 37 C.F.R. §3.81.

The petition is **DISMISSED**.

The address of the petition is different from that of the address of record. As a courtesy a copy of this decision is being provided to Petitioner, however, until/unless the proper Notice is filed of record, all communication will be directed to the address presently of record.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted

within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §§1.183, 1.323, 3.81."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

As is evident from the caption, above, the instant application:

- was filed on30 August, 2001; and
- issued as a patent on 9 August, 2005

Petitioner has failed to provide to required data–which may include the assignment recordation data.

The requirements as to a Certificate of Correction are set forth at under 37 C.F.R. §1.323 to correct Applicant/Petitioner's error in the issuance of the patent to the Assignee under 37 C.F.R. §1.183.

Petitioner may also consult the commentary at MPEP §§1480 - 1485.

The instant petition is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[1]

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300

[1] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

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

ATTN.: Office of Petitions

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

The instant application is released to IFW Files Repository.

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

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

cc:
CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

UNITED STATES 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

Barry L. Kelmachter
BACHMAN & LaPOINTE, P.C.
Suite 1201
900 Chapel Street
New Haven, CT 06510-2802

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APR 2 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Deluca et al.
Application No. 09/943,150
Filed: August 30, 2001
Attorney Docket Number: 01-415
Title of Invention: MODIFIED ADVANCED HIGH STRENGTH SINGLE CRYSTAL SUPERALLOY COMPOSITION

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

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on July 14, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 15, 2003. A Notice of Abandonment was mailed on February 23, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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

This application is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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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LSI CORPORATION
1621 BARBER LANE
MS: D-105
MILPITAS, CA 95035

MAILED

SEP 11 2009

OFFICE OF PETITIONS

In re Application of
Charles E. May
Application No. 09/943,196
Filed: August 30, 2001
Attorney Docket No. 01-146

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before June 18, 2008, as required by the Notice of Allowance and Fee(s) Due mailed March 18, 2008. Accordingly, the application became abandoned on June 19, 2008.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

The 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; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAMES WOOD
MAGINOT, MOORE & BECK LLP
CHASE TOWER
111 MONUMENT CIRCLE, SUITE 3250
INDIANAPOLIS, IN 46204-5115

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KEVIN J. MORIARTY
PATENT DEPARTMENT
DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265-8098

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SEP 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Folker Beck :
Application No. 09/943,226 : ON PETITION
Filed: August 29, 2001 :
Attorney Docket No. 08952-US :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 20, 2005.

The application became abandoned for failure to pay the issue fee on or before March 9, 2005. A Notice of Abandonment was mailed April 18, 2005. In response, on June 20, 2005, the requisite issue fee and the present petition were filed.

The petition is GRANTED.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

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APR 27 2005

OFFICE OF PETITIONS

In re Application :
Mori, et al. :
Application No. 09/943,229 : PATENT TERM ADJUSTMENT
Filed: August 30, 2001 :
Dkt. No.: 564131/0023 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT (37 C.F.R. § 1.705)," timely filed June 15, 2004. This request is being treated under 37 C.F.R. § 1.705(b).

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

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 562 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 0 days as indicated on the Determination of Patent Term Adjustment mailed June 1, 2004 to 579 days.

A review of the application history reveals that an adjustment of 580 days under 37 C.F.R. § 1.702(a)(1) can be attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began October 31, 2002, the day after the date that is fourteen months after the date on which the application was filed, and ended June 1, 2004, the date the Notice of Allowance was mailed.

In accordance with 37 C.F.R. § 1.704(b), the adjustment of 580 days is reduced 18 days for applicants' delay. The delay began January 5, 2002, the day after the date that is three months from the mail date of the Notice of Incomplete Nonprovisional Application ("Notice") mailed October 4, 2001, and ended January 22, 2002, the date a reply to the Notice was filed.

In view thereof, the adjustment of 580 days is reduced 18 days for applicants delay. Thus, the application is entitled to a patent term adjustment of 562 days.

The required fee of $200.00 for an application for patent term adjustment has been charged to Deposit Account No. 19-4709 as authorized in the instant petition.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

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

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

Enclosure: Copy of Adjustment PAIR Calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 7, 2008

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No09/943262 patent no7186975

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: OK

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER 2853

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 11 2002

Paper No. 5

In re Application of	:	
Rafael Elul	:	
Serial No. 09/943,319	:	DECISION ON PETITION
Filed: August 30, 2001	:	TO MAKE SPECIAL
For: ENERGY RECOVERY IN SHOE SOLES FOR IMPROVED ATHLETIC PERFORMANCE	:	

Applicant's petition, filed January 8, 2002, seeks to have this application made special based upon applicant's age. The petition is DISMISSED.

A petition to make special based upon applicant's age requires evidence in support thereof such as a copy of a birth certificate, or a verified statement of applicant's age. A verified statement is either an affidavit under oath before a Notary Public, or a declaration which concludes with the following statement:

> "The undersigned declares that all statements made herein of his or her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon."

The instant petition lacks the required evidentiary support. Applicant may renew the petition by filing evidence to support the allegation of age.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Rafael Elul
P.O. Box 882941
San Francisco, CA 94188

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

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Travis Swanson :
Application No. 09/943,320 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. MIC-17 :

This is a decision on the petition, filed July 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 19, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2186 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. None

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NEW YORK NY 10020-1105

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of
Travis Swanson
Application No. 09/943,320
Filed: August 30, 2001
Attorney Docket No.: MIC-17
Title: MEMORY CONTROLLERS HAVING PINS WITH SELECTABLE FUNCTIONALITY

DECISION ON PETITION UNDER
37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed April 19, 2005, to revive the above-identified application. The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 2, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on March 3, 2005. A Notice of Abandonment was mailed on April 18, 2005.

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

With the petition, Petitioner has submitted the petition, issue, and publication fees, as well as a statement which is being construed as the proper statement of unintentional delay. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

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)
6694636	2004-02-24	09943337	2001-08-30	

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	/Kevin Maher/	Date (YYYY-MM-DD)	2008-06-26
Name	Kevin Maher		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6694636
Issue Date: February 24,2004
Application No. 09943337
Filed: August 30,2001
Attorney Docket No. KVM-100-A

:
: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.

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

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OFFICE OF PETITIONS

In re Application of :
Cheryl Sott :
Application No. 09/943,372 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. None :

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

The petition is **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 June 1, 2004. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on . See MPEP 1215.04.

The statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 37 C.F.R. §1.137 (b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

This matter is being referred to Technology Center AU 1617 for processing of the request for continued examination under 37 CFR 1.114 .

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

UNITED STATES
PATENT AND
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AUG 7 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

DAVID LENTINI
CHIRON CORPORATION
4560 HORTON STREET
EMERYVILLE CA 94608-2916

#12

In re Application of :
Paul A. Renhowe et al :
Serial No.: 09/943,382 : PETITION DECISION
Filed: August 30, 2001 :
Attorney Docket No.: 072121-0139 :

This is a response to the petition under 37 CFR 1.59(b), filed July 8, 2002, to expunge information from the above identified application. The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that a documents submitted as a Proprietary Information Disclosure Statement, submitted July 8, 2002, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

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

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) 308-7230

Bruce M. Kisliuk
Director, Technology Center 1600

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

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

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APR 0 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kouhei Kabuki et al :
Application No. 09/943,395 :
Filed: August 30, 2001 :
Attorney Docket No. 1743/192 :

This is a decision on the petition, filed March 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2877 will process the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. _____

Date :April 1, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Kouhei Kabuki et al
Application No. :09/943,395
Filed :August 30, 2001

The above-identified application has been assigned Patent No. 6,724,478 and an issue date of April 20, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 20, 2004:

"All reference to Patent No. 6,724,478 to Kouhei Kabuki et al of Japan for SPECTROPHOTOMETER appearing in the Official Gazette of April 20, 2004 should be deleted since no patent was granted."

Karen Creasy

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

Paper No.3

David L. Feigenbaum
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804

MAILED

OCT 1 5 2002

Technology Center 2100

In re Application of: Bradley Geilfuss et al.)
Application No. 09/943,400)
Filed: August 30, 2001) **DECISION ON REQUEST FOR**
For: CONTENT MANAGEMENT AND) **WITHDRAWAL AS ATTORNEY**
DISTRIBUTION)

This is a decision on the Request To Withdraw from Representation filed September 23, 2002.

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

The request filed September 23, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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

for James R. Matthews

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

cc: ZELO TECHNOLOGIES
511 Avenue of the Americas
Suite #387
New York, NY 10011

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United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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NOV 2 2 2006

OFFICE OF PETITIONS

In re Application of :
GOLDMAN, et al. :
Application No. 09/943,405 : DECISION ON PETITION
Filed: August 30, 2001 : TO WITHDRAW
Attorney Docket No. H0001867 (FSP:114.001US01 : 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 August 20, 2006.

The request is **APPROVED**.

A review of the file record indicates that Bradley A. Forrest: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Bradley A. Forrest has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

There is an outstanding Office action mailed October 30, 2006 that requires a reply from 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: **Honeywell International Inc.**
Law Dept. AB2
P.O. Box 2245
Morristown NJ 07962-9806

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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

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

In re Application of
Avi Kliger

Application No. 09/943,424
Filed: August 30, 2001
For: HOME NETWORK SYSTEM AND METOD

DECISION ON REQUEST TO WITHDRAW FROM RECORD

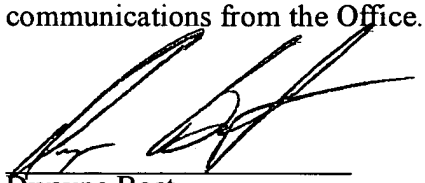
This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on August 10, 2004.

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

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

All attorneys/agents listed in the request are withdrawn.

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



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

CC: Mr. Avi Kliger
Tiaris, Inc.
P.O. Box 12349
Herzelia ISRAEL 43733

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Swabey Ogilvy Renault
Suite 1600
1981 McGill College Avenue
Montreal QC H3A 2Y3 CA CANADA

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AIRMAIL

OFFICE OF PETITIONS

In re Application of :
Dennis G. Hall :
Application No. 09/943,465 : DECISION GRANTING PETITION
Filed: August 31, 2001 :
Attorney Docket No. P287-USa1 :

This is in response to the "Petition to Establish Prior Receipt in the PTO of Item(s) Considered as Omitted by the PTO--Response to Notice to File Missing Parts Noting Omitted Items" filed December 18, 2001.

The above-identified application was submitted on August 31, 2001. On January 15, 2001, the Office of Initial Patent Examination mailed a "Notice of Missing Parts of Nonprovisional Application" (the "Notice"), stating that, among other items, Figure 22 and Figure 24 of the drawings as described in the specification appeared to have been omitted.

In response, on December 18, 2001, petitioner filed the instant petition, a declaration under 37 CFR 1.63, a copy of the Office date-stamped postcard receipt evidencing receipt of fourteen (14) sheets of drawings, and a subsequently mailed copy of the postcard receipt wherein the Office indicated that only thirteen sheets of drawings were received.

Upon review of the record, Figure 22 and Figure 24, filed August 31, 2001, have not been located among the application papers. However, the evidence is convincing that Figure 22 and Figure 24 among the application papers filed August 31, 2001, and were subsequently misplaced by the Office. The application is considered complete on the date the items required by the Notice were received. The application is, therefore, entitled to retain the currently accorded filing date of August 31, 2001.

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of August 31, 2001, using Figures 22 and Figure 23 filed December 18, 2001.

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010

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

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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APR 19 2006
OFFICE OF PETITIONS

In re Application of :
Osone, et al. :
Application No. 09/943,512 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 500.40530X00 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 3, 2005. Accordingly, this application became abandoned on September 4, 2005. A Notice of Abandonment was mailed on January 10, 2006.

The file is being forwarded to Technology Center 2800 for review of the amendment, filed April 10, 2006, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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In re Patent No. 7,284,008 :
Issued: October 16, 2007 : DECISION ON APPLICATION FOR
Application No. 09/943,524 : PATENT TERM ADJUSTMENT
Filed: August 29, 2001 :
Dkt. No.: KABAP002 :

This is a decision on the "PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT BASED ON USPTO ERROR," filed November 29, 2007. This matter is being properly treated as an application for patent term adjustment under 37 CFR 1.705(d).

The above-identified application matured into U.S. Patent No. 7,284,008 on October 16, 2007. The instant request for reconsideration was timely filed in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 731 days. Patentees argue that the patent term adjustment was improperly reduced 49 days in connection with a corrected drawing figure that was submitted August 23, 2007.

An application for patent term adjustment under 37 CFR 1.705 must be accompanied by the required fee of $200.00. The period of time for submission of a complete application for patent term adjustment under 37 CFR 1.705 is limited to TWO MONTHS after the date of issuance of the patent and is not subject to extension of time.

The instant application for patent term adjustment lacks the required $200.00 application fee and does not include authorization to charge the required fee to a deposit account.

In view thereof, the application for patent term adjustment under 37 CFR 1.705(d) is hereby **DISMISSED.**

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

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

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MERCHANT & GOULD BELLSOUTH CORPORATION
P.O. BOX 2903
MINNEAPOLIS MN 55402

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of :
Shannon Short :
Application No. 09/943,554 : ON PETITION
Filed: August 30, 2001 :
Title: Method and System for Prepaid Roaming Minutes :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 13, 2007.

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

This application was held abandoned February 21, 2007 for failure to timely reply to the final Office Action mailed on November 21, 2006. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed August 22, 2007.

Petitioner contends the Office Action mailed on June 9, 2004 was not received because it was mailed to the incorrect correspondence address. Petitioner submitted a request to revoke the power of attorney on May 6, 2003. On May 27, 2003, a Notice was mailed indicating the revocation of power of attorney would not be entered because the request was not accompanied by a statement under 37 CFR 3.73(b). Petitioner supplied a statement under 37 CFR 3.73(b) and requested entry of the revocation and change of address on August 11, 2003. As evidence, petitioner has submitted a copy of the change of address and a copy of a date stamped postcard receipt. The date stamped postcard serves as prima facie evidence that the change of correspondence was received by the Office.

The change of correspondence address submitted August 13, 2003 has been located in the Office. The change of correspondence was submitted prior to the mailing of the non-final Office action.

This application is being forwarded to Art Unit 3692 for re-mailing of the non-final Office Action to the current correspondence address of record. The non-final Office Action extendable period for reply will start upon the re-mailing of the Office Action.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 14

DAVID B. RITCHIE
THELEN REID & PRIEST LLP
PO BOX 640640
SAN JOSE, CA 95164-0640

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MAY 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Mtchell :
Application No. 09/943,569 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. YIELD-0002 :

This decision concerns the April 19, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on March 5, 2003 for failure to timely respond to the December 4, 2002 non-final Office Action.

The instant petition encloses an "Amendment and Response to Office Action," a set of drawings and the $665 petition fee (small entity); and states in effect that the entire delay in responding to the December 4, 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.

As requested, the new power of attorney and the new correspondence address have been entered and made of record.

The application file is being returned to Technology Center 1700 for further examination.

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

RC Tang
Petitions Attorney
Office of Petitions

Attachments:

Notice Regarding Change of Power of Attorney (revoking prior powers of attorney)
Notice of Acceptance of Power of Attorney (accepting 3/15/04 Power of Attorney)

#5

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

GREENBERG TRAURIG, P.A.
1221 BRICKELL AVENUE
MIAMI, FL 33131

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MAR 2 2 2002

OFFICE OF PETITIONS

In re Application of
Stiberman
Application No. 09/943,576
Filed: August 30, 2001
Attorney Docket No. 41693.010100

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed October 23, 2001, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice), mailed October 9, 2001.

The application was deposited on August 30, 2001. On October 9, 2001, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 21 of the specification was omitted.

In response to the Notice, petitioner timely filed the present petition on October 23, 2001. Petitioner requests that page 21 be accorded a filing date of August 30, 2001 on the basis that the entire specification, including missing page 21, was received in the Patent and Trademark Office (PTO) on August 30, 2001. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode showing August 30, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 23 pages of specification.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing page 21, was filed on August 30, 2001. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's request, a treasury check for the $130.00 petition fee will be scheduled in due course.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of August 30, 2001, using the copy of page 21 supplied with the petition.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STRADLING YOCCA CARLSON & RAUTH
IP DEPARTMENT
660 NEWPORT CENTER DRIVE, SUITE 1600
P.O. BOX 7680
NEWPORT BEACH, CA 92660-6441

In re application of:
Brent McKay
Application No. 09/943,585
Filed: August 30, 2001
For: INTERACTIVE ELECTRONIC DIRECTORY SERVICE, PUBLIC INFORMATION AND GENERAL CONTENT DELIVERY SYSTEM AND METHOD

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on May 9, 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.

Attorney requesting withdrawal is not of record.

Accordingly, the request is **DENIED.**

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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IP DEPARTMENT
660 NEWPORT CENTER DRIVE, SUITE 1600
P.O. BOX 7680
NEWPORT BEACH, CA 92660-6441

MAIL

JAN 11 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Brent McKay
Application No. 09/943,585
Filed: August 30, 2001
For: INTERACTIVE ELECTRONIC DIRECTORY SERVICE, PUBLIC INFORMATION AND GENERAL CONTENT DELIVERY SYSTEM AND METHOD

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 August 22, 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 of record 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: Brent McKay
c/o eMine Technology, Inc.
3901 Westerly Place, Suite 110
Newport Beach, CA 92660

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/24/06

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/943,586 Patent No.: 6983360

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: The corrections are directed to the formality of the figures.

SPE 2183

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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JUN 2 2004

Office of the Director
Group 3600

Albert P. Sharpe, III, Esq.
Fay, Sharpe, Fagan, Minnich & McKee, LLP
7th Floor
1100 Superior Avenue
Cleveland OH 44114-2518

In re Application of
Alan Goldsmith et al.
Application No. 09/943,613
Filed: August 30, 2001
For: ON-SITE E-COMMERCE PARTS ORDERING FROM PRODUCTS BEING SERVICED

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 January 23, 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 December 4, 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.

KJD/mjz: 5/28/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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COMMISSIONER FOR PATENTS
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Gary L. Loser
Varian Semiconductor Equipment Associates, Inc.
35 Dory Road
Gloucester MA 01930

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JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Sullivan, et al. : DECISION ON PETITION
Application No. 09/943,625 :
Filed: August 30, 2001 :
Atty. Dkt. No.: V0077/7140WRM :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed December 29, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned December 23, 2004 for failure to timely submit a proper reply to the non-final Office action mailed September 22, 2004. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed May 20, 2005.

Petitioners argue that a proper response to the non-final Office action was timely submitted March 22, 2005.

Review of Office records reveals that the response, including petition for extension of time, was received at the USPTO on March 24, 2005 (certificate of mailing date of March 22, 2005), while intended for instant application did not include the correct application serial number. The response improperly cited U.S. App. No. 09/943,652. As a result of applicants' error, the application was held abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the response. The Office elects, in this instance, to treat applicant's error as a correctable minor error as permitted under MPEP 502. However, applicants are reminded that minor errors, such as

occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMPSON COBURN LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS, MO 63101

COPY MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Patent No. 6,827,899	:	
Issue Date: December 7, 2004	:	
Application No. 09/943,647	:	NOTICE
Filed: August 30, 2001	:	
Attorney Docket No.: 5017-8377	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
45 ROCKEFELLER PLAZA, SUITE 2800
NEW YORK, NY 10111

COPY MAILED

AUG 25 2004

OFFICE OF PETITIONS

In re Application of :
Shuichi Kikuchi et al :
Application No. 09/943,667 :
Filed: August 31, 2001 :
Attorney Docket No. 10417-094001

ON PETITION

This is a decision on the petition, filed August 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 27, 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 (703) 306-5684.

The file will be forwarded to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Hogan & Hartson, LLP
One Tabor Center, Suite 1500
1200 Seventeenth Street
Denver, CO 80202

JUN 18 2002

In re Application of:
Ashraf El-Sadi
Application No. 09/943,705
Filed: August 31, 2001
Attorney Docket No. Q01-1044-US1

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 10, 2002, and supplemented on June 14, 2002.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of 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).

In this case, the request was signed by William Kubida, an attorney of record, on behalf of all attorneys associated with Customer No. 25235 and there is no outstanding Office action requiring a response by the applicant. Accordingly, the request is **approved**.

There is no attorney of record at this time.

As indicated in the request, all future communications from the Office will be directed to Paul Hansra at the below-listed address until otherwise notified by applicant.

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

cc: Paul Hansra
3705 Canterbury Lane, Apt. 6
Bellingham, WA 98225

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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SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT CO 80503

COPY MAILED

JAN 23 2007

OFFICE OF PETITIONS

In re Application of :
Ashraf El-Sadi :
Application No. 09/943,705 :
Filed: 08/31/2001 :
Attorney Docket No. Q01-1044-US1 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed August 3, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on November 4, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 2837.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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#5

MAILED

JUN 16 2004

Office of the Director
Group 3600

James M. Stover
NCR Corporation
1700 South Patterson Blvd, WHQ4
Dayton, OH 45479

In re Application of :
John D. Frazier et al. :
Application No. 09/943,708 :
Filed: August 31, 2001 :
For: CUSTOMER SATISFACTION THROUGH CUSTOMER IDENTIFICATION AND SERVICE-TIME MEASUREMENT :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on April 26, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated January 29, 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.

KJD/vdb: 6/3/04

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
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LOUIS PAUL HERZBERG
3 CLOVERDALE LANE
MONSEY, NY 10952

COPY MAILED
MAY 17 2006
OFFICE OF PETITIONS

In re Patent of	:	
Chari et al.	:	
Application No. 09/943,720	:	DECISION
Filed: July 30, 2003	:	ON PETITION
Attorney Docket Number:	:	
YOR920010711US2	:	

This is a decision in response to the Renewed Petition Under 37 CFR § 1.137(b), filed March 10, 2006, 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 June 6, 2005. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on September 7, 2005. A Notice of Abandonment was mailed on December 27, 2005.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A response to the Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2131 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE – 10TH FLOOR
NEW YORK, NY 10151

COPY MAILED

DEC 0 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Genova et al.	:	
Application No. 09/943,733	:	ON PETITION
Filed: August 31, 2001	:	
Attorney Docket No. 930006-2001	:	

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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3/28/06

In re Patent No. 6,912,874 (KUNERT ET AL.)
Issue Date: July 5, 2005
Appl No.: 09/943,739
Filed: September 04, 2001
For: DEVICE AND PROCESS FOR INTRODUCING GASES INTO A HOT MEDIUM

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed November 4, 2005 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.

Steven P. Griffin
Supervisory Patent Examiner
Art Unit 1731
Technology Center 1700

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

UNITED STATES 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 18 2004

Workman Nydegger
60 East South Temple
1000 Eagle Gate Tower
Salt Lake City, UT 84111

Paper No.

In re Application of	:	DECISION ON PETITION
Scott R. Watterson et al	:	TO WITHDRAW
Serial No. : 09/943,741	:	HOLDING OF
Filed : August 30, 2001	:	ABANDONMENT
For : Elliptical Exercise Device with Leaf Spring Supports	:	

This is a decision on petitioner's request filed October 22, 2004, to review the holding of abandonment mailed October 12, 2004, for failure to pay the issue fee as required in the Notice of Allowance and Fee(s) Due mailed June 2, 2004. The basis for the request is that applicant did not receive the communication mailed June 2, 2004. 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 October 22, 2004 includes all the above elements. Further, an inspection of the file reveals that the Office action in question was returned undelivered. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the mailing of a new Notice of Allowance and Fee(s) Due with a copy of the Notice of Allowability that was mailed June 2, 2004.

Summary: Holding of Abandonment Withdrawn.

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

ak/11/04/04

SN: 09/943741

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 6, 2005

TO SPE OF : ART UNIT 3764

SUBJECT : Request for Certificate of Correction on Patent No.: 6,875,160

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

Approved by

STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT ~~302~~ 3764

Stephen K. Cronin
Primary Examiner
Acting SPE

SPE

3764
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-2-07

TO SPE OF : **Technology Center** 2813 09/943763

SUBJECT : Request for Certificate of Correction on Patent No.: 6977214 B2

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

LYNNE GURLEY
SUPERVISORY PATENT EXAMINER

SPE 2800 2813 **Art Unit**

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: David J. Corisis

Patent No.: 6,977,214 B2

Issued: December 20, 2005

For: DIE PADDLE CLAMPING METHOD FOR WIRE BOND ENHANCEMENT

Attorney Docket No.: 2269-3388.6

VIA ELECTRONIC FILING

October 5, 2007

OK to Enter / Approved
11/21/07

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANT MISTAKES (37 C.F.R. § 1.323) AND 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 a combination of Applicant and Patent Office errors appear in this patent of a typographical nature or character and correction thereof does not involve such changes in the patent as would constitute new matter or would require reexamination. A certificate of correction in the form attached hereto is requested.

Please send the Certificate to:

Name: James R. Duzan
Address: TraskBritt
P.O. Box 2550
Salt Lake City, Utah 84110

Please note that an Amendment Pursuant to 37 C.F.R. § 1.312(a) (copy enclosed) was filed concurrently with the issue fee on September 30, 2005, but the amendments contained

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. 11

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
SCHENECTADY, NY 12301-0008

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APR 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Hariharan et al. :
Application No. 09/943,767 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. RD-28131 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 19, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 26, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 27, 2003. A Notice of Abandonment was mailed on January 7, 2004.

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

The file is now being forwarded to Technology Center 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
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DENISE M. GLASSMEYER
YOUNG & BASILE, P.C.
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY MI 48084

COPY MAILED

JUN 0 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Frank Grant
Application No. 09/943,784
Filed: August 31, 2001
Attorney Docket No. MPZ-100-A

This is a decision on the petition, filed June 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1714 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed : Paper of January 9, 2005

In re Application of:
Frank GRANT
Serial No. 09/943784
Filed: August 31, 2001
For: HIGH PERFORMANCE FIBER REINFORCED THERMOPLASTIC RESIN, METHOD AND APPARATUS FOR MAKING THE SAME

DECISION ON PETITION

This is a decision on the petition, filed October 18, 2004, to correct inventorship under 37 CFR 1.48(a). It is noted that the applicant has met the requirements of (i) a petition including statements from James H. Zweng who is being added as an inventor, that the error in inventorship occurred without deceptive intention on his part; (ii) an oath or declaration by the actual inventor as required by 37 CFR 1.63 (Note 37 CFR 1.67(a)(2)); (iii) the fee set forth in 37 CFR 1.17(i); and (iv) the written consent of the assignee under 37 CFR 3.73(b). See Papers of October 18, 2004.

The petition is **GRANTED.**

Patrick Niland
Primary Examiner, Art Unit 1714
Technology Center 1700

FRANK GRANT
c/o Denise M. Glassmeyer
YOUNG & BASILE, P.C.
3001 West Big Beaver Road, Ste 624
Troy, Michigan 48084-3107

DATED 07/30/2009 08/11/2009 /AL/"O.K. to enter the requested." - Thanks! /AL/

Docket No. 1363-007 Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	
	:	
Simpson et al.	:	
	:	Examiner: Anh Ly
Patent No.: 7,519,575	:	
	:	Group Art Unit: 2162
Issued: April 14, 2009	:	
	:	
Serial No.: 09/943,786	:	
	:	

For: **METHOD AND APPARATUS FOR PRESENTING, SEARCHING, AND VIEWING DIRECTORIES**

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
Office of Patent Publication
Attn: Certificate of Corrections Branch
P.O. Box 1450
Alexandria, VA 22313-1440

Dear Sir:

It is respectfully requested that a Certificate of Correction be issued in the above-identified patent as shown on the attached Certificate of Correction form. Specifically, the following errors are noted:

In the drawings, Sheet 3, Fig. 8, the reference numeral "100" should be changed to --200-- ; and

In the drawings, Sheet 3, Fig. 8, the reference numeral --210-- should be added to identify the query portion of the page 200.

DATED: 08/05/2009 08/11/2009 /AL/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/5/09

TO SPE OF : ART UNIT 2162 Breene John (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/943786 Patent No.: 7519575

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Please enter (it is approved) the changes/corrections as the requested dated 07/30/2009 /AL/ Thanks!

/John E Breene/ — SPE

2162 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MACCORD MASON, PLLC
300 N. GREENE STREET, SUITE 1600
P.O. BOX 2974
GREENSBORO, NC 27402

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MAY 22 2006

OFFICE OF PETITIONS

In re Application of :
JiNan Glasgow :
Application No. 09/943,799 :
Filed: August 31, 2001 :
Attorney Docket No. N/A :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on October 17, 2005.

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

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

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

There is an Office action mailed March 1, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: JiNan Glasgow
Spore, Inc.
P.O. Box 28539
Raleigh, NC 27611-8539

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 30 2007

Technology Center 2100

Frederick E. Cooperrider
McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Rd., Suite 200
Vienna, VA 22182-3817

In re Application of: Ditlow et al.
Application No. 09/943,829
Attorney Docket No. BUR9-2000-0146-US1
Filed: August 31, 2001
For: METHOD AND APPARATUS TO MANAGE MULTI-COMPUTER SUPPLY

DECISION ON PETITION TO REINSTATE APPEAL UNDER 37 CFR §1.181

This is a decision on the petition filed on August 18, 2006 requesting reinstatement of the appeal for this application, as authorized by 37 CFR § 1.193(b)(2)(ii). Applicants are advised that 37 CFR § 1.193 was removed and reserved effective September 13, 2004. The applicable rules for appellate practice before the Office are now found in Part 41 of Title 37 of the Code of Federal Regulations.

The petition is **DISMISSED** as moot.

A review of the file jacket shows that subsequent to the filing of this petition, the Office mailed a notice of non-compliant brief on September 1, 2006, a new appeal brief was filed October 8, 2006, and a new non-final rejection was mailed November 15, 2006.

The current procedures for reinstatement of appeals are outlined in MPEP 1204.01. No petition should be filed for such a request. The effect of filing either a new notice of appeal under 37 CFR 41.31 and/or a completely new appeal brief in compliance with 41.37 (along with any new fees necessary, if the appeal fees have increased) serves to reinstate the appeal.

Applicants' period for response continues to run from the mail date of the non-final Office action mailed November 15, 2006.

Future inquiries regarding this application should be directed to the supervisor of Art Unit 2195, Ms. Meng An at 571-272-3756.

Josie A. Ballato
Work Group Quality Assurance Specialist, WG 2190
Technology Center 2100

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

FREDERICK W. GIBB, III
MCGINN & GIBB, PLLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS, MD 21401

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FEB 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Badura, et al. :
Application No. 09/943,841 : DECISION ON PETITION
Filed: August 31, 2001 :
Atty Docket No. YOR9-2001-0552-US1 :

This is a decision on the "Petition Under 37 C.F.R. 1.17(h) and Response to Notice of Incomplete Nonprovisional Application and Request for Refund," filed January 17, 2002 (certificate of mailing November 2, 2001), which is properly considered as a petition under 37 C.F.R. §1.53(e)(2)[1] to accord the above-identified application a filing date of August 31, 2001 and to refund the petition fee.

Application papers in the above-identified application were filed on August 31, 2001. However, on October 5, 2001, the Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.[2]

In reply, applicants filed the instant petition. Applicants contend that the alleged omitted items were, in fact, filed in the U.S. Patent and Trademark Office with the filing of the original application on August 31, 2001. In support thereof, petitioner submitted *inter alia* a copy of their return postcard receipt listing "5" sheets of drawings, identifying this application by assignment of serial number 09/943,841, bearing a United States Patent and Trademark Office receipt date-stamp of August 31, 2001, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has

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[1] §1.53(e)(2) provides that "Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph. ... In the absence of a timely (§1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected."

[2] See 35 U.S.C. 111(a)(4).

shown that the application as filed on August 31, 2001 included five sheets of informal drawings, and thus, is entitled to a filing date of August 31, 2001.

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

Given the basis for granting the petition, no petition fee is required and none has been charged.

Receipt of the four (4) sheets of substitute formal drawings filed on January 17, 2002, is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of August 31, 2001, using the application papers received in the Office on that date and the five (5) sheets of informal drawings resubmitted on petition filed January 17, 2001.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should 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

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POLSTER LIEDER WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS, MO 63131-3615

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JUL 3 0 2004

OFFICE OF PETITIONS

In re Application of
James C. Easley
Application No. 09/943,866
Filed: August 31, 2001
Attorney Docket No. 7703

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 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 January 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 9, 2004.

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

This matter 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

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Alexandria, VA 22313-1450
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January 2005

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

JAN 31 2005

In re Application of:
Konstantinos Manetakis
Serial No.: 09/943,888
Filed: August 30, 2001
Attorney Docket No.: 010186

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the "REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT . . . UNDER MPEP 711.03" filed October 20, 2003. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. There is no fee for this petition.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on August 7, 2003 holding the application to be abandoned for failure to file a proper response to the Office action mailed on January 28, 2003 (Office action was actually mailed on January 23, 2003).

Petitioner asserts that a response to the Office action was timely filed on May 27, 2003. To support this assertion, petitioner has submitted a copy of the response and a copy of a stamped return postcard. The postcard identifies receipt on May 27, 2003 of a amendment transmittal letter; an amendment in three pages; and Information Disclosure Statement (IDS); Two References; and a PTO-1449 form . The original three page response (no actual amendment) and amendment transmittal letter have just been matched with the file. Thus, it is apparent that there was no abandonment in fact.

The Notice of Abandonment mailed on August 7, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The amendment transmittal letter included a request (i.e., petition) for an extension of time. Although the specific number of months was not identified on the transmittal letter, the authorization to charge the given Deposit Account the amount of $110.00, the Certificate of Mailing dated May 23, 2003 on the response and the specific mention of a one month extension of time within the response, clearly indicated that a one month extension of time was being requested.

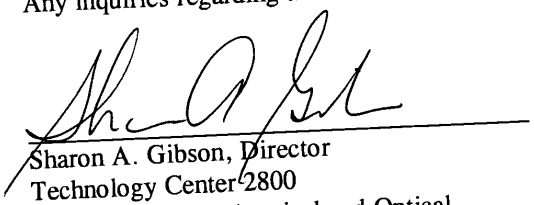
A review of the file record, indicates a number of errors. As noted above, the original three page

response and amendment transmittal letter were just matched with the file. However, the original IDS, PTO-1449 form and the two references still have not been matched with the paper file. Office records indicate that the $110.00 fee for the one month extension of time was charged to the correct Deposit Account but was associated with application S.N. 09/934,888 instead of 09/943,888. Although PALM (Patent Application Location and Monitoring System) indicates that the IDS filed May 27, 2003 was also associated with application S.N. 09/934,888, the IDS is not presently in that application file. Luckily, the mistake was realized and the original IDS, PTO-1449 form, and most importantly, the two references (i.e., publications) were taken from S.N. 09/934,88 and associated with a partial IFW (Image File Wrapper) version of the present paper application file (i.e., S.N. 09/943,888) on November 29, 2004.

The original IDS, PTO-1449 form, and the two publications will be printed out from the partial IFW version and placed into the present paper application for use by the examiner. The application will then be forwarded to the Technical Support Staff for processing of the response and for updating the status of the application. The $110.00 fee for the one month extension of time will be disassociated from application S.N. 09/934,888 and associated with the present application. Finally, the application will be forwarded to the examiner for appropriate action in due course.

Any inconvenience due to the abandonment of the application and to the length of time between the filing of the petition and the preparation of this decision is greatly regretted. The application was temporarily misplaced during the conversion of paper files into IFW files.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



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

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Paper No. **5**

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON, SUITE 800
TULSA, OK 74103-3318

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OFFICE OF PETITIONS

In re Application of
Kerry A. Thompson
Application No. 09/943,950
Filed: August 31, 2001
Attorney Docket No. 67952/01-270

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

This is a decision on the petition, filed November 5, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in a foreign country on August 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 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 2153 for examination in due course.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 6

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

QUARLES & BRADY LLP
RENAISSANCE ONE
TWO NORTH CENTRAL AVENUE
PHOENIX AZ 85004-2391

In re Application of :
Masoian et al. :
Application No. 09/943,962 : DECISION ON REQUEST TO
Filed: 8/31/2001 : WITHDRAW AS ATTORNEY
Attorney Docket No. 143603.01000 :
For: SYSTEM AND METHOD FOR :
TRANSMITTING INFORMATION
MODULATED RADIO FREQUENCY SIGNALS
USING INFRARED TRANSMISSION

This is a decision on the request to withdraw as attorney/agent of record filed on June 3, 2002

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

The request is **GRANTED** for the undersigned, Paul D. Amrozowicz. Since the request did not make a clear indication that the undersigned is signing on behalf of another/others, the remaining attorneys listed in Customer No. 26707 remain active.

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.

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

cc: Mr. Lee Masoian
AeroComm, Inc.
464 Hudson Terrace
Englewood Cliffs, NJ 07632

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

STREICH LANG
ATTN CHARLES JIRAUCH
RENAISSANCE ONE
TWO N CENTRAL AVE
PHOENIX, AZ 85004-2391

MAIL

AUG 2 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:)
Lee Masoian, et al.)
Application No.: 09/943,962) DECISION ON REQUEST TO
Filed: August 31, 2001) WITHDRAW AS ATTORNEY
For: SYSTEM AND METHOD FOR TRANSMITTING INFORMATION MODULATED RADIO FREQUENCY SIGNALS USING INFRARED TRANSMISSION

This is a decision on the renewed Request For Withdrawal As Attorney Or Agent filed June 30, 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.

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

cc: Mr. Lee Masoian
AeroComm, Inc.
464 Hudson Terrace
Englewood Cliffs, NJ 07632

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No. 9

EMRICH & DITHMAR
ATTORNEYS AND COUNSELORS
SUITE 3000
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Michael M. Thackeray et al :
Application No. 09/943,966 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 220 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2004 and resubmitted on August 16, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 30, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 31, 2002.

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), the USPTO acknowledges the timely receipt of a partial reply on February 21, 2002. However, the Notice mailed January 30, 2002, additionally required the submission of substitute drawings in compliance with 37 CFR 1.84 because the "drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must have a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch)." Therefore, timely compliance with this requirement must have been made in order to avoid the abandonment of the application.

On reviewing the transmittal letter submitted with the partial reply of February 21, 2002, there is no indication that petitioner submitted substitute drawings as required by the January 30, 2002 Notice within the maximum extendable period for reply.

MPEP 608.02(b) states that "[i]f a drawing is not timely received in reply to a notice from the Office or a letter from the examiner who requires a drawing, the application becomes abandoned for failure to reply." That is, applicants were given Notice that substitute drawings had to be supplied to avoid the abandonment of this application.

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

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

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

By fax: (571) 273-8300

Pursuant to petitioner's authorization, Deposit Account No. 05-1060 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.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARRY M. LEVY
EMRICH & DITHMAR, LLC
125 SOUTH WACKER DRIVE, SUITE 2080
CHICAGO IL 60606-4401

Paper No. 11

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
THACKERAY et al. :
Application No. 09/943,966 :
Filed: August 31, 2001 :
Attorney Docket No. ANL 220 :

DECISION
ON PETITION

This is a decision on a renewed petition under 37 CFR 1.137(b), filed January 23, 2006 and resubmitted December 5, 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 a Notice to File Missing Parts of Nonprovisional Application mailed January 30, 2002, 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 application became abandoned on April 2, 2002 (March 30, 2002 being a Saturday).

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of: (a) a properly executed oath or declaration, (b) the late declaration surcharge fee, and (c) substitute drawings in compliance with 37 CFR 1.84; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Missing Parts of Nonprovisional Application of January 30, 2002 is accepted as having been unintentionally delayed.

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

The application matter is being forwarded to Office of Initial Patent Examination.

Denise Pothier
Petitions Examiner
Office of Petitions

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Paper No. 16

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Arthur D. Taylor :
Application No. 09/943,987 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 11653-002001 :

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

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed September 25, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 26, 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), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

The application file is being forwarded to the Technology Center 1700, Art Unit 1742 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WOODS FULLER SHULTZ
& SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS SD 57117

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JUN 30 2008

In re Application of

Daniel J. Reed

Application No. 09/944,009

Filed: August 31, 2001

Attorney Docket No. 00-1048

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 13, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $720.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed November 18, 2005. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on February 19, 2006. A Notice of Abandonment was mailed May 4, 2006.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office. If, after further investigation, applicant discovers that the delay was other than unintentional, applicant must immediately contact the Office.

The issue fee and Form PTOL-85-b were received on June 13, 2008.

The application is being forwarded to the Office of Data Management 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6655589
Issue Date: December 2,2003
Application No. 09944024
Filed: August 31,2001
Attorney Docket No. 00-1763

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

This is a decision on the electronic petition, filed June 1,2009 ,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 June 1,2009 . 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.

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P O BOX 3445
NASHUA, NH 03061-3445

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OFFICE OF PETITIONS

In re Application of :
Charles A. Howland :
Application No. 09/944,066 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. W0490/7030 RJP :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 31, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on December 14, 2004, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed January 10, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 1, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 11/068,029.

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 $510 extension of time submitted with the petition on March 1, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Files Repository.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Gordon Stewart
Agilent Technologies
Legal Dept., DL429
P.O. Box 7599
Loveland CO 80537-0599

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of
LEFKOWITZ
Application No. 09/944,083
Filed: August 31, 2001
Attorney Docket No. 10010381-1

: 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 December 17, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in the amendment filed November 23, 2003. 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 (D.C. Cir. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

As authorized, the $1330 fee required by 37 CFR 1.78(a)(3)(ii) has been charged to petitioner's Deposit Account.

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

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

---

[1] *Note* 37 CFR 1.121

By hand: Customer Window located at:

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-1820.

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

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United States Patent and Trademark Office
P.O. Box 1450
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Gordon Stewart
Agilent Technologies
Legal Dept., DL429
P.O. Box 7599
Loveland CO 80537-0599

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OFFICE OF PETITIONS

In re Application of :
Steven M. LEFKOWITZ et al. :
Application No. 09/944,083 : DECISION ON PETITION
Filed: August 31, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10010381-1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 31, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a

proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed August 31, 2004 fails to state the relationship of Application No. 09/145, 015, filed September 1, 1998, to this application.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) which state the relationship of the prior-filed application to this application are required.

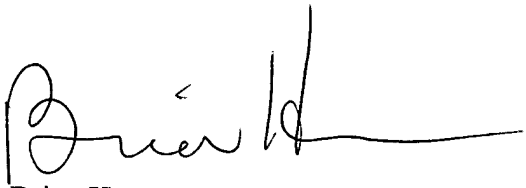
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence to the undersigned at (571) 272-3217.



Brian Hearn
Petitions Examiner
Office of Petitions

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55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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APR 2 7 2005

OFFICE OF PETITIONS

In re Application of :
David R. Kranz :
Application No. 09/944,091 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 12942.0067.N :

This is a decision on the petition filed February 17, 2005, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition filed April 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) 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 October 5, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 6, 2005.

As to the petition under 37 CFR 1.313(c)(2):

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 17, 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]

---

[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

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

This matter is being referred to Technology Center AU 1754 for processing of the request for continued examination under 37 CFR 1.114.

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

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first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Patent of Gondouin :
Patent No. RE38,616 :
Issue Date: October 12, 2004 : Decision on Petition
Application No. 09/944,115 :
Filing Date: September 4, 2001 :
Attorney Docket No. 02376.0006-04000 :

This is a decision in response to the petition under 37 CFR 1.377 filed December 19, 2006, requesting the Office determine the instant patent is not expired.

The petition is **GRANTED.**

Facts:

Application No. 07/814,585 issued as Patent No. 5,462,120 on October 31, 1995.

Petitioner filed Reissue Application No. 08/861,457 on May 22, 1997.

The 3.5 year maintenance fee was timely paid for Patent No. 5,462,120 on April 16, 1999.

Petitioner filed four continuation applications based on Application No. 08/861,457:

(1) 09/824,738 filed April 4, 2001,
(2) 09/871,813 filed June 4, 2001,
(3) 09/944,115 filed September 4, 2001, and
(4) 09/956,806 filed September 21, 2001.

Reissue Application No. 08/861,457 issued as Reissue Patent No. RE37,867 on October 8, 2002.

The 7.5 year maintenance fee and surcharge were paid on June 6, 2003, for RE37,867.

Reissue Application No. 09/824,738 issued as Reissue Patent No. RE38,636 on October 26, 2004.

Reissue Application No. 09/871,813 issued as Reissue Patent No. RE38,642 on November 2, 2004.

Reissue Application No. 09/944,115 issued as Reissue Patent No. RE38,616 on October 12, 2004.

Reissue Application No. 11/038,005 was filed as a continuation of Reissue Application No. 09/956,806 on April 8, 2005. The application is currently pending.

Reissue Application No. 09/956,806 issued as Reissue Patent No. RE39,141 on June 27, 2006.

Discussion:

A review of the facts demonstrates the instant patent is not, and has never been, expired. To the extent any Office records have indicated the patent is expired, the records are hereby vacated.

The Office will schedule a refund of the $200 petition fee.

PTO records will be updated to indicate the patent has not expired.

As a courtesy, the Office will now discuss the payment of the 11.5 year maintenance fee.

Per the MPEP, when a reissue patent issues based on an original patent, maintenance fee payments should be made for the reissue patent based on the schedule established for the original patent. The MPEP states a maintenance fee does not have to be paid for subsequent reissue patents. MPEP 501 states, "No payment of additional maintenance fees is required for second or subsequent reissue patents, i.e., continuation or divisional reissues (see MPEP 1451), which are derived from a first reissue patent which has issued."

Unfortunately, the Office finance system, RAM, currently updates multiple reissue patents only if the payment is made in the most recent reissue patent to be issued. If petitioner complies with the MPEP, and the Office employee who process the fee fails to recognize the need to move the fee to the newest reissue patent in RAM, problems may arise. Therefore, the Office of Petitions strongly suggests petitioner pay the 11.5 year fee for Reissue Patent No. RE39,141. However, if a reissue patent based on Reissue Application No. 11/038,005 issues prior to payment of the 11.5 year maintenance fee, then the 11.5 year fee should be applied towards the new reissue patent.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of :
Silfverberg, et al. :
Application No. 09/944,165 : PATENT TERM ADJUSTMENT
Filed: September 4, 2001 :
Dkt. No.: 004770.00018 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed April 14, 2006. This matter is being treated as a timely filed application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **HELD-IN ABEYANCE UNTIL AFTER THE PATENT ISSUES.** If Applicants' disagree with the determination at the time of the of the issuance of the patent, they can request that the Office reconsider the determination within two months of the issuance of the patent. If the sole reason for the request for reconsideration of the PTA determination is the 3-year rule, then applicant can have the PTA determination reviewed without an additional fee.

The correct PTA at the time of the allowance is 242 days.

The Determination of Patent Term Adjustment under 35 USC 154(b), mailed March 8, 2006, indicated a PTA to date of 242 days.

Applicants request that the Determination of Patent Term Adjustment be corrected from 242 days to include an unspecified period of adjustment that encompasses the period of pendency of the application beyond three years. Applicants have not contested the period of adjustment totaling 271 days or the reduction of 26 days for applicants' failure to engage in reasonable efforts to conclude prosecution. Applicants further assert that there was no further failure to engage in reasonable efforts to conclude prosecution by applicants.

Applicants are advised that knowledge of the actual date the patent issues is required to calculate the amount of additional patent term, if any, for Office failure to issue the patent

within three years. *See*, 37 CFR 1.703(b). Thus, applicants' request for reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application is being **held in abeyance** until after the actual patent date.

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37 CFR 1.704(b)), the entire period during which the application was pending (except for periods excluded under 35 USC 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 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A). Thus, any days of delay for Office issuance of the application that 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 USC 154(b)(1)(B), 35 USC 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 Red. Reg. 21704 (April 22, 2004).

The adjustment of 271 days is reduced three days in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement (IDS) submitted July 29, 2004. The reduction began December 16, 2003, the day after the date that the initial reply was submitted, and ended July 29, 2004, the date the supplemental reply (IDS) was submitted.

The adjustment of 271 days is further reduced 26 days, as acknowledged by applicants in accordance with 37 CFR 1.704(b).

Accordingly, at the time of mailing of the notice of allowance, the application is entitled to an adjustment of 242 days as determined. The adjustment of 271 days is properly reduced 29 days in accordance with 37 CFR 1.704

The Office acknowledges receipt of the required fee of $200.00 for an application for patent term adjustment.

This application is being directed to the Office of Patent Publication for further processing. Any delays in issuing the patent pursuant to 37 CFR 1.702(a)(4) will be reflected in the determination that is mailed to applicants in the issue notification letter approximately three weeks prior to issuance of the patent.

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

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

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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of:
Ming-Dou Ker et al.
Serial No.: 09/944,171
Filed: September 4, 2001
For: ESD PROTECTION CIRCUIT WITH VERY LOW INPUT CAPACITANCE FOR HIGH-FREQUENCY I/O PORTS

DECISION ON PETITION

This is a decision on the petition, filed October 1, 2004 to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failing to timely filed the appeal brief[1]. A Notice of Abandonment was mailed on September 20, 2004.

Petitioner asserts that the appeal brief was timely filed on March 1, 2004, along with a petition for an extension of time of one month and requisite fees as evidenced by a copy of the postcard receipt from the USPTO dated March 1, 2004.

The file record does not indicate receipt of the appeal brief or the fees associated with its filing and these papers cannot be located. However, M.P.E.P. § 503 states that: "A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. "

[1] The Notice of Abandonment incorrectly indicated that the case was held abandoned for failure to respond to the final Office action.

In view of the postcard receipt and petitioner's statement, it is determined that the appeal brief was timely filed but lost after receipt thereof.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The appeal brief filed with the petition is accepted since the originally submitted appeal brief is apparently lost.

The one-month extension of time fee and the fee for filing the appeal brief will be charged to petitioner's deposit account.

The examiner will consider the appeal brief and take appropriate action.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

James Dwyer, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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P.O. BOX 19928
ALEXANDRIA VA 22320

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2800

In re Application of
Akihiko Ito, et al.
Application No. 09/944,189
Filed: September 4, 2001
For: METHOD OF DRIVING ELECTRO-OPTICAL APPARATUS, DRIVE CIRCUIT FOR ELECTRO-OPTICAL APPARATUS, ELECTRO-OPTICAL APPARATUS, AND ELECTRONIC APPARATUS

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed September 24, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

This application was abandoned for failure to file a timely response to the non-final Office action mailed October 21, 2003. A Notice of Abandonment was mailed on September 20, 2004.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice of Allowance was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice of Allowance on the part of the Patent and Trademark Office.

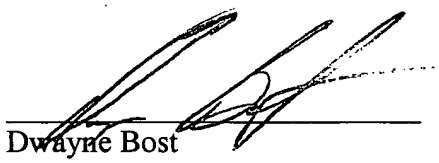
Petitioner's statement that "A search of the file jacket and docket records indicates that the Office Action was not received" is taken as though the practitioner personally searched the file jacket and docket records as required and thus the petition has met the requirements of M.P.E.P. § 711.03(c), section II.

In view of the above, there is showing of non-receipt of the Office action at the correspondence address of record at that time. Accordingly, the application was not abandoned in fact.

The petition is **GRANTED.**

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to TC 2600 technical support staff to re-mail the Office action. The shortened statutory period for reply will be set to run from the mailing date of the new action.



Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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WASHINGTON, D.C. 20231
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Paper No. 7

JOHN PIETRANGELO
HESLIN ROTHENBERG FARLEY & MESITI P.C.
5 COLUMBIA CIRCLE
ALBANY, NY 12203

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MAY 28 2002

OFFICE OF PETITIONS

In re Application of :
Daniel M. Wing et al :
Application No. 09/944,190 : NOTICE
Filed: August 31, 2001 :
Attorney Docket No. 1242.017 :

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 3763.

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

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COMMISSIONER FOR PATENT
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OFFICE OF PETITIONS

In re Application of:
Whitman, et al.
Filed: 30 August, 2001
Application No. 09/944,230
Docket No.:2269-4294.1US (98-102.01/US)

ON PETITION

This is a decision on the petition filed herein on 30 January, 2003, under 37 C.F.R. §1.137(a)[1] to revive the above-identified application, and in light of the allegations also considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.[2]

---

[1] A Petition filed under the provisions of 37 C.F.R. §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 for 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 required by 37 C.F.R. §1.17(l);
(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; 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).

An application is "unavoidably" abandoned only where Petitioner (or Petitioner's counsel) takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, the response is not timely received in the Office. That is, in the context of ordinary human affairs the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[2] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:
§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 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 or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *
(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Brief 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 declaration (and exhibits, if any) must accompany the petition.
© When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, it may be required that there have been a proper request for reconsideration (§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 decision upon the matters averred in the petition, supplying a copy thereof 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. * * *
(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor

For the reasons set forth below, the petition under:

- 37 C.F.R. §1.181 is **GRANTED**; and
- 37 C.F.R. §1.137(a) is **DISMISSED as moot**.

BACKGROUND

The record indicates that:

- it appeared that applicant failed to reply timely and properly to the non-final Office action mailed on 3 June, 2002, and due (absent extension of time) on or before 3 September, 2002;
- the application was deemed abandoned after midnight 3 September, 2002;
- Notice of Abandonment mailed on 24 January, 2003;
- Petitioner contends as his showing that he received no Notice, and Petitioner provides documentation (docket records or mail logs, file jacket, etc.) in support of the allegation.

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3]

CONCLUSION

Accordingly, the petition to:

- to withdraw the holding of abandonment as considered under 37 C.F.R. §1.181 must be and hereby is **granted**; and
- revive as to unavoidable delay under 37 C.F.R. §1.137(a) is **dismissed as moot**.

A copy of the 3 June, 2002, Office action is enclosed herewith, and Petitioner has three (3) months from the mail date of this decision within which to reply. (Extensions of time under 37 C.F.R. §1.136(a) are permitted.)

The petition fee ($110.00) is waived and refunded via Treasury check.

---

act as a stay of other proceedings. * * *

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

The instant application is being forwarded to Technology Center 2800 for further processing upon Petitioner's submission of a timely and proper reply.

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.

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

COPY MAILED

JUL 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Kalimuthu et al.	:	
Application No. 09/944,252	:	DECISION ON
Filed: August 30, 2001	:	PETITION
Atty Docket No. 2705-170	:	

This is a decision on the "PETITION FOR ISSUANCE AND TO WITHDRAW HOLDING OF ABANDONMENT ..." filed June 13, 2006.

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 January 9, 2006. The period for transmitting the issue fee is not extendable. No reply having been received, the above-identified application became abandoned on April 10, 2006. A courtesy Notice of Abandonment was mailed on May 16, 2006.

In response, applicants filed the instant petition on the grounds that the Notice of Allowance forming the basis of the abandonment was not received by applicant's attorneys (the correspondence address of record).

There is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record[1]. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to

[1] It is noted that the correspondence address was changed to that of the customer number on February 22, 2006. Nonetheless, the customer number address is the same address used when mailing the previous Office actions. There was no change of address affecting mailing of the Notice of Allowance to the correct address.

overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed May 16, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2616 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 mailing of a new Notice of Allowance and Fee(s) Due (and mailing of a new Notice of Allowability) and for restarting of the period for reply to both Notices.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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SEP 25 2008

In re Application of Fong et al.
Application No. 09/944,313
Filing Date: August 30, 2001
Attorney Docket No. 10012952-1

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed June 20, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

Facts:

The Office mailed a non-final Office action on March 7, 2007.

A reply and payment for an extension of time were filed July 9, 2007.

The Office mailed a Notice of Non-Compliant Amendment on July 18, 2007. The Notice stated,

> The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).

The July 18, 2007 Notice set a period for reply of one (1) month or thirty (30) days (whichever is later). Since August 18, 2007, fell on a Saturday, and August 19, 2007, fell on a Sunday, a reply was due on or before August 20, 2007.

The image file wrapper contains a reply and new drawings filed August 20, 2007.

The Office mailed a Notice of Abandonment on March 18, 2008.

Discussion:

Petitioner requests the Office withdraw the holding of abandonment.

Petitioner has provided evidence to establish a reply to the July 18, 2007 Notice was mailed in compliance with 37 CFR 1.8(a) on August 17, 2007. However, such evidence is unnecessary

because the actual reply was received by the Office on August 20, 2007, and subsequently matched with the file.

Since a reply was timely filed in response to the July 18, 2007, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2151 will be informed of the instant decision and the examiner will review the papers filed August 20, 2007, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,315	08/31/2001	Martin W. Masters	2001P16281US	2177

7590 08/19/2004

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER	
DABNEY, PHYLESHA LARVINIA	
ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 08/19/2004

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/944315	8/31/01	Masters et al.	

EXAMINER	
P. Dabney	
ART UNIT	PAPER NUMBER
2643	16

DATE MAILED:

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

Commissioner of Patents.

DECISION ON PETITION UNDER 37 C.F.R. §1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The petition filed 3/17/04 ; 4/26/04 under 37 C.F.R. §1.97(d) for consideration of an information disclosure statement filed after [ ] Allowance [X] Final has been:

[ ] GRANTED.

[X] DENIED.

[ ] It was filed after payment of the issue fee, see 37 C.F.R. §1.97(d)(2).

The petition lacks:
[X] The required fee under 37 C.F.R. §§1.97(d) and 1.17(i)(1).

[X] A proper certification as specified in 37 C.F.R. §§1.97(d) and 1.97(e).

The information disclosure statement has been placed of record in the file but will not be considered by the examiner.

CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

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.
09/944,318	08/31/2001	Tore Nauta	NL 000483	2147

24737 7590 06/04/2007

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

EXAMINER	
STULTZ, JESSICA T	

ART UNIT	PAPER NUMBER
2873	

MAIL DATE	DELIVERY MODE
06/04/2007	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.

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

In re Application of	:	
TORE NAUTA, et al.	:	DECISION ON PETITION
Serial No.: 09/944318	:	UNDER 37 CFR 1.144
Filed: March 31, 2001	:	
For: DISPLAY DEVICE:		

The request filed on May 1, 2006, to withdraw the restriction requirement mailed February 24, 2005 is being treated as a petition under 37 CFR 1.144.

The petition is GRANTED for the reasons provided by applicant in said request filed on May 1, 2006.

This application is being forwarded to the examiner for appropriate action consistent with this decision.

Ricky L. Mack
SPE, Art Unit 2873

Docket Clerk
P.O. Drawer 800889
Dallas TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

DORSEY & WHITNEY, LLP
SUITE 4700
370 SEVENTEENTH STREET
DENVER, CO 80202-5647

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JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Daniel F. Williams, et al. :
Application No. 09/944,324 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. 11049.02 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed October 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 December 6, 2001.

In view of the submission of the petition fee in the large entity amount of $1,330, status as a small entity has been removed.

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

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 25 2005

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

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

MAILED

MAR 25 2005

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Daniel F. Williams et al.
Application No. 09/944,324 :
Filed: August 30, 2001 :
For: METHOD, APPARATUS, AND MANUFACTURE FOR FACILITATING A SELF-ORGANIZING WORKFORCE :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 10, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item B). While a reason may be provided by referencing a specific portion of 37 CFR 10.40, the reason must deal with actions by the client. In this case, there is nothing in the file record that indicates the existence of an assignee or that the assignee is the client. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 03/21/05

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Paper No. 5

Eugene C. Rzucidlo
Greenberg Traurig, LLP
885 Third Avenue
New York, NY 10022

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OCT 16 2003

OFFICE OF PETITIONS

In re Application of :
Thomas P. Ivanyi :
Application No. 09/944,348 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 43868.010200 :

This is a decision on the petition under 37 CFR 1.137(b) filed September 25, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to the Notice to File Missing Parts (Notice) mailed September 20, 2001, which set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on November 21, 2001.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Paul J. Davis, et al. :
Application No. 09/944,389 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. ISA-048.06 :

This is a decision on the petition, filed June 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 February 17, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1641 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
WASHINGTON, D.C. 20231
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Paper No. 6

Wendi R. Schepler
Carr & Ferrell LLP
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

MAIL

MAY 0 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

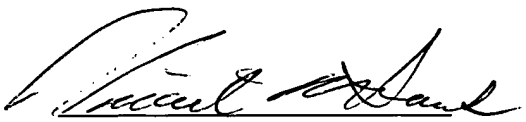
In re Application of:)
Joseph Chamdani, et al.)
Application No. 09/944,425) **DECISION ON REQUEST FOR**
Filed: August 30, 2001) **WITHDRAWAL AS ATTORNEY**
For: UNIFIED NETWORKING DEVICE)

This is a decision on the Request To Withdraw from Representation filed March 25, 2002.

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

The request is **GRANTED**.

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



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

cc: Bart Showalter
Baker Botts LLP
2001 Ross Avenue
Dallas, TX 75201

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dss

Mailed: FEB 11. 2005

Paper Number _____

In re application of :
David G. Midkiff et al. : DECISION ON
Serial No.09/944,435 : PETITION
Filed: August 31,2001 :
For: RIGIDIFIED NONWOVEN AND METHOD
OF PRODUCING SAME :

This is a response to the PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT filed May 28, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 23, 2004 for failure to timely file a proper reply to the Office letter of July 25, 2003, be withdrawn since the applicants did timely file a response thereto on August 25, 2003 by facsimile transmission to the USPTO. (A copy of the papers filed August 25, 2003 and a copy of the Facsimile Transmission Report indicating receipt of the facsimile transmission at the USPTO is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on August 25, 2003 by facsimile transmission as evidenced by the properly completed Certification of Facsimile Transmission attached to applicant's response and by the copy of the Facsimile Transmission report provided with the instant petition which indicates the successful transmission, to a USPTO facsimile telephone number (703-305-7718), of 3 pages. Therefore, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Office letter mailed on July 25, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers originally filed August 25, 2003 by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert A. Ambrose
KIMBERLY-CLARKE WORLDWIDE INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

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ALEXANDRIA, VA 22313-1450
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KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA, PA 19103

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
Fujioka, et al. : DECISION UNDER
Application No. 09/944,444 : 37 CFR 1.705(b)
Filed: August 31, 2001 :
Atty. Dkt. No.: RCOH-1036 :

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)" filed January 31, 2005.

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

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 483 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 488 days, as indicated on the Determination of Patent Term Adjustment mailed December 15, 2004 to an adjustment of 551 days.

Review of the application file history reveals that at the time of allowance, an adjustment of 488 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) could be attributed to the Office.

As indicated by applicants, in accordance with 37 CFR 1.704(b), the adjustment of 488 days must be reduced five days in connection with the amendment submitted June 7, 2004. The reduction began June 3, 2004, the day that is the day after the date that is three months after the date the non-final Office action was mailed on March 2, 2004, and ended June 7, 2004, the date an amendment in response to the non-final Office action was received.

A supplemental non-final Office action was mailed June 16, 2004 to which a timely response was submitted August 23, 2004. The Notice of Allowance was timely mailed in accordance with 37 CFR 1.702(a)(2) on December 15, 2004.

Applicants argue that the non-final Office action mailed June 16, 2004 was not a supplemental Office action within the meaning of 35 USC 1.132, but instead was an interview summary for which a response was not required. Thus, applicants argue that an additional adjustment of 68 days is appropriate under 37 CFR 1.702(a)(2).

Applicants arguments have been considered, but are not found convincing. Review of the supplemental non-final Office action mailed June 14, 2004 indicates that it is in fact an Office communication within the meaning of 35 USC 112 which set a three month shortened statutory period of time for response. Applicants timely submitted a reply August 23, 2004. The non-final Office action corrected the previously filed non-final Office action and specifically set forth a new period of time for response. An interview summary was included with the non-final Office action.

Accordingly, the application was entitled to a patent term adjustment of 483 days at the time of allowance.

The Office hereby acknowledges receipt of the required application fee of $200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Karin Ferriter for

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

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Kevin P. Baker et al :
Application No. 09/944,449 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. P2548P1C9 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 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 Office action mailed March 15, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 16, 2004.

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

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

The matter is being referred to Technology Center AU 1646 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Brinks, Hofer, Gilson & Lione
NBC Tower, Suite 3600
455 N. Clyfront Plaza Dr.
Chicago, IL 60611-5599

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

COPY MAILED

MAR 20 2007

OFFICE OF PETITIONS

In re Application of :
Reneau et al. : DECISION ON PETITION
Application No. 09/944,460 :
Filed: August 31, 2001 :
Attorney Docket No. PU010185 :

This is in response to the communication filed August 16, 2006, which is properly treated as a petition to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed May 7, 2004. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on August 8, 2004. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

Petitioner indicates that a response dated August 9, 2004 was timely filed. In support thereof, petitioner submits a copy of their response and their return postcard dated August 11, 2004.

The instant petition was filed more than 2 years after the abandonment of the application. Petitioner is reminded that 37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a

notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f). The instant petition will not be dismissed as untimely filed; however, any patent issuing from this application may be subject to entry of a period of reduction of patent term adjustment. See MPEP 711.03(c).

With respect to the merits of the petition, it is noted that a postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Petitioner's postcard evidence has been considered and found to be *prima facie* evidence that the response was, in fact, timely received August 11, 2004. In addition, the response included a certificate of mailing dated August 9, 2004 (but no first hand statement attesting to timely mailing).

Accordingly, any holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2622 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw any holding of abandonment and for the examiner to consider the response to non-final Office action resubmitted on petition filed August 16, 2006.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 07

Fred G. Pruner, Jr.
TROP, PRUNER & HU, P.C.
SUITE 100
8554 KATY FREEWAY
HOUSTON, TX 77024-1805

MAR - 4 2003

In re Application of:
TYLER A. LOWREY
Application No. 09/944,478
Filed: August 31, 2001
Attorney Docket No.: INTO-0006-US
(P12499)

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the request filed August 30, 2002, via facsimile transmission, and refiled September 30, 2002, to withdraw the holding of abandonment of the above-identified application. A petition fee is not required.

The request is **granted.**

The application was held abandoned for failure to respond to the Office action mailed on January 23, 2002. A Notice of Abandonment was mailed on August 26, 2002.

Petitioner asserts that a response to the Office action of January 23, 2002, was mailed to the United States Patent and Trademark Office (PTO) on June 11, 2002.

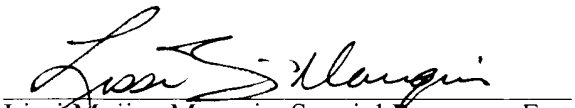
A review of the application file record reveals that the above-identified response was not associated with the application file at the time Notice of Abandonment was mailed, but has since been located and matched therewith. The response of record bears a PTO stamped receipt date of August 28, 2002. However, the response includes a Certificate of Mailing under 37 C.F.R. § 1.8(a) having a date of deposit with the United States Postal Service of January 31, 2002. Accordingly, the response is considered timely.

For the above-stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for appropriate action.

The $130.00 petition fee charged to petitioner's deposit account will be credited to petitioner's deposit account number **20-1504.**

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 4

MAIL

SEP 2 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Michael A. Mann
NEXSEN PRUET JACOBS & POLLARD LLC
PO DRWR 2426
COLUMBIA SC 29202-2426

In re Application of :
Baughman :
Application No. 09/944,941 :
Filed: August 27, 2001 :
For: WEARABLE ERGONOMIC COMPUTER MOUSE :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney or Agent of record filed on August 25, 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 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: CARBA FIRE TECHNOLOGIES, Inc.
15 MAIN STREET
LEWIS RUN, PA 16738

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN - 9 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Application of :
David A. Lomas :
Serial No. 09/944,511 :
Filed: August 31, 2001 :
For: Process For Upgrading FCC Product :
With Additional Reactor

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.31(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon 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 James Arnold at (571) 272-1443.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

John G. Tolomei, Patent Department
UOP LLC
25 East Algonquin Road
P.O. Box 5017
Des Plaines, IL 60017-5017

cc: Allowed Files, PK3-915A
Drafting Branch, PK3-915

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN - 9 2004

In re Application of	:	
David A. Lomas	:	NOTICE OF WITHDRAWAL
Serial No. 09/944,511	:	FROM ISSUE
Filed: August 31, 2001	:	UNDER 37 CFR 1.313(b)
For: Process For Upgrading FCC Product With Additional Reactor	:	

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 1.31(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon 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 James Arnold at (571) 272-1443.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

John G. Tolomei, Patent Department
UOP LLC
25 East Algonquin Road
P.O. Box 5017
Des Plaines, IL 60017-5017

cc: Allowed Files, PK3-915A
Drafting Branch, PK3-915

OIPE JC10 JAN 09 2002 PATENT & TRADEMARK OFFICE

6P2182

PATENTS
15311-2285U1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re The Application of:
Roger D. Pannell

Serial No.: 09/944,517

Filed: August 31, 2001

For: SYSTEM AND METHOD FOR INCREASING THE COUNT OF OUTSTANDING SPLIT TRANSACTIONS

Examiner: Not yet assigned

Art Unit: 2182

RECEIVED JAN 16 2002 Technology Center 2100

Cesari and McKenna, LLP
88 Black Falcon Avenue
Boston, MA 02210
October 24, 2001

CERTIFICATE OF MAILING

I hereby certify that the following paper is being deposited with the United States Postal Service as first-class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, on October 24, 2001.

Safiya Jarvis

RECEIVED JAN 16 2002 MAIL ROOM

_X_ Preliminary Amendment

_X_ Return Receipt Postcard

15311-2285R
MRR

UNITED STATES
PATENT AND
TRADEMARK OFFICE

RECEIVED

JAN 16 2002

TC 2600 MAIL ROOM

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

August 29, 2001

OIPE JC10 JAN 09 2002 PATENT & TRADEMARK OFFICE

Michael R. Reinemann
Cesari and McKenna,LLP
88 Black Falcon Avenue
Boston MA 02210-2414

RECEIVED
SEP 07 2001
CESARI

In re Application of:
Roger Dean Pannell, et al.
Application No.: 09/620,678
Filed: **August 31, 2000**
Attorney Docket No.: 15311-2285

N/A
DECISION ON PETITION

This is a decision on your petition received in the Patent and Trademark Office on February 20, 2001, treated as a petition under 37 CFR 1.53(b)(2)(ii) to convert the above identified application to a Provisional application under 35 U.S.C. 111 (b) and 37 CFR 1.53(b)(2).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a Provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(b)(2), including the assignment of a new Provisional application number.

The Provisional application serial number is **60/304,167.** The filing receipt for the Provisional application number will be communicated to applicant by OIPE in due course.

Betty L. Robinson, Program Assistant
Office of Initial Patent Examination
(703) 308-0910

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Robert H. Frantz
P.O. Box 23324
Oklahoma City, OK 73123-2334

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
JANAKIRAMAN, et al. : DECISION ON PETITION
Application No. 09/944,518 :
Filed: August 31, 2001 :
Docket No.: AUS920010653US1 :

This is a decision on the petition under 37 CFR 1.137(a), filed August 16, 2005, to revive the above-identified application. This matter is being jointly considered under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

This application was held abandoned March 16, 2005 for failure to timely file a proper reply to the non-final Office action mailed December 15, 2004. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136 were timely requested. Notice of Abandonment was mailed July 11, 2005.

DECISION UNDER 37 CFR 1.181

Petitioner states that a response to the non-final Office action was submitted via facsimile on January 14, 2005 in accordance with the Certificate of Transmission procedures outlined at 37 CFR 1.8. Petitioner has included a copy of the response filed in response to the non-final Office which bears a certificate of transmission in accordance with 37 CFR 1.8.

A review of the application file does not indicate receipt of the response purportedly filed January 14, 2005, however, the response will be considered timely as it complies with the requirements of 37 CFR 1.8(b) in that (1) the Office was promptly informed of the previous timely mailing, (2) a copy of the previously submitted correspondence with certificate of transmission thereon has been supplied, and (3) statements attesting to the previous timely transmission have been submitted.

In view of the evidence presented by petitioner, the Notice of Abandonment in the above-referenced application is hereby vacated and the holding of abandonment withdrawn. Accordingly, the response

to the non-final Office action will be accepted as having been timely filed.

In view of the evidence presented, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby GRANTED.

DECISION UNDER 37 CFR 1.137(a)

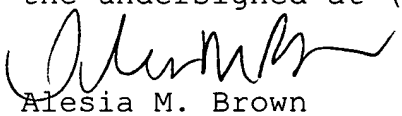
A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

In view of the withdrawal of abandonment, the petition to revive under 37 CFR 1.137(a) is hereby DISMISSED AS MOOT.

Petitioner is entitled to a refund of the previously submitted $500.00 petition fee and may request a refund by writing to the Finance Office, Refund Branch. A copy of this decision should accompany any request for refund.

The application file is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JEFFREY C HOOD
MEYERTONS HOOD KIVLIN KOWERT AND GOETZEL PC
P O BOX 398
AUSTIN TX 78767-0398

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of :
Grey, et. al : DECISION ON PETITION
Application No. 09/944,521 :
Filed: August 31, 2001 :
Docket No.: 5150-49600 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 22, 2006.

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed July 19, 2005. The Notice set a three month statutory period of time for rpely. Notice of Abandonment was mailed November 29, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES 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. RUSSAVAGE
C/O LOWIE LOWIE, LANDO & ANASTASI, LLP
RIVERFRONT OFFICE PARK
ONE MAIN STREET, SUITE 11
CAMBRIDGE, MA 02142

COPY MAILED

MAY 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Chow et al. :
Application No. 09/944,522 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. R00434/70008 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 13, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 6, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 7, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is now being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 12

ANDERSON & MORISHITA, L.L.C.
2725 S JONES BLVD.
SUITE 102
LAS VEGAS, NV 89146

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MAY 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Marks et al. :
Application No. 09/944,533 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. KONAMI01-07 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 29, 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 4, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 5, 2003. A Notice of Abandonment was mailed on February 24, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 3700 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 19 2009

OFFICE OF PETITIONS

CHRISTIE PARKER & HALE LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Application of :
Dong, et al. :
Application No. 09/944,534 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 47013/PAN/S850 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 18, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed June 30, 2008. This Office action set a shortened statutory period for reply of three months. Applicants filed an Amendment on October 30, 2008. However, by Advisory Action mailed January 12, 2009, the Examiner informed Applicants that the Amendment would not be entered because it failed to place the application in condition for allowance. No further reply having been received, the application became abandoned on October 31, 2008. The Office mailed a Notice of Abandonment on February 4, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3628 for consideration of the RCE, filed May 18, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions 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)
6976044	2005-12-13	09944559	2001-08-31	MAXM-2012

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael North/	Date (YYYY-MM-DD)	2009-12-23
Name	Michael V. North	Registration Number	46963

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. 6976044
Issue Date: December 13,2005
Application No. 09944559
Filed: August 31,2001
Attorney Docket No. 3927P016

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 23,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 23,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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AL-JASSIM, RAWAA
2578 RIVER WOODS DRIVE
NAPERVILLE, IL 60565

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JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Nida Abdul-Ghani Nassief :
Application No. 09/944,564 : ON PETITION
Filed: September 4, 2001 :
For: ASTHMA/ALLERGY THERAPY THAT TARGETS T-LYMPHOCYTES AND/OR EOSINOPHILS :

This is a decision on the petition under 37 CFR 1.137(a), filed February 17, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay. In this instance, the fee required by law is $250. No consideration on the merits can be given the petition to revive until the full fee has been received.

In a perusal of the petition and the statements in support of unavoidable delay, petitioner should, instead of pursuing revival under the unavoidable standards of 37 CFR 1.137(a), consider filing a petition stating that the delay was unintentional.[1] Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent

[1] Applicant is advised that, once the fee is submitted for the unavoidable petition under 37 CFR 1.137(a), this fee is not refundable should the finding be found to be unfavorable. Further, the $250 petition fee cannot be applied towards the $750 fee for the filing of a petition under the unintentional delay standards of 37 CFR 1.137(b).

and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750 petition fee. The form for filing a petition under the unintentional standards of 37 CFR 1.137(b) may be found on the USPTO website (USPTO.gov) under forms. The form number is PTO/SB/64.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentinoally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

/Frances Hicks/

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

AL-JASSIM, RAWAA
2578 RIVER WOODS DRIVE
NAPERVILLE, IL 60565

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Nida Abdul-Ghani Nassief :
Application No. 09/944,564 : DECISION GRANTING PETITION
Filed: September 4, 2001 : UNDER 37 CFR 1.137(b)
For: ASTHMA/ALLERGY THERAPY THAT TARGETS T-LYMPHOCYTES AND/OR EOSINOPHILS :

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply to the Office action (restriction requirement), mailed May 12, 2004, which set a one month period for reply. No extensions of time having been timely obtained pursuant to the provisions of 37 CFR 1.136(a) and no timely reply having been filed, this application became abandoned at midnight on June 14, 2004 (June 12, 2004, the due date, is a Saturday).

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 (filed on August 4, 2004); (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of May 12, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1623 for appropriate action on the reply received August 4, 2004.

Frances Hicks
Petitions Examiner
Office of Petitions

HARD FILE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/15/06

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/944593 Patent No.: 6822793

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**.

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: _____

Stephone B. Allen
Supervisory Patent Examiner

SPE

2872
Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	12

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted The petition to accept color drawings filed 5/12/03 is hereby granted.

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

Christina Chan
CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	12

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted The petition to accept color drawings filed 5/12/03 is hereby granted.

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

Christina Chan
CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDALE FL 33322

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of :
Burgan, et al. :
Application No. 09/944,615 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. PTO3307U :
For: MESSAGING SYSTEM PROVIDING MESSAGE REDUNDANCY REDUCTION :

This is a decision on the petition under 37 CFR 1.137(a), filed April 13, 2005, requesting revival of the above-identified application. The petition will be treated under 37 CFR 1.181, as a request to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed August 10, 2004, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on November 11, 2004 for failure to reply to the August 10, 2004 final Office action. A Notice of Abandonment was mailed on March 10, 2005.

Petitioners assert an amendment was timely transmitted via facsimile to and received by the Office on November 10, 2004. The Office has no record of receiving these items. However, the copy of the itemized Transmittal Form submitted with the instant petition contains a proper certificate of facsimile transmission citing a November 10, 2004 date of deposit. The Transmittal Form states that an After-final Amendment and Fee Transmittal Form was enclosed.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto (2) a statement which attests on a personal knowledge basis to the previous timely transmission. A copy of the sending unit's report confirming transmission may be used to support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

Petitioners have supplied persuasive evidence of facsimile transmission on November 10, 2004. Specifically, petitioners have submitted a copy of their USPTO Auto-Reply Facsimile Transmission which shows that 14 pages was received in the Office on November 10, 2004. The

Received Cover Page printed on the first page of the Auto-Reply Facsimile Transmission is the aforementioned Transmittal Form.

The petition under 37 CFR 1.181 is **GRANTED** and the Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

Accordingly, the application file will be forwarded to the Technology Center A.U. 2635's technical support staff for entry of the November 10, 2004 amendment. Thereafter, the application file will be forwarded to the examiner of record for action in due course.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

In Re Application: :
Timothy O. Knight
Appl No. 09/944624 : WITHDRAW FROM ISSUE
Filed: September 4, 2001 : FEE NOT PAID
Attorney Docket No.: PROP 98002D1 :
For: INTERFACE AND PROGRAM USING VISUAL DATA ARRANGEMENTS FOR EXPRESSING USER PREFERENCES CONCERNING AN ACTION OR TRANSACTION

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Paul Sewell
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

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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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INTELLECTUAL PROPERTY LAW OFFICES
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL, CA 95008

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Dinan, et al. : DECISION ON PETITION
Application No. 09/944,648 :
Filed: August 31, 2001 :
Atty. Dkt. No.: SJO9-2000-0009US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed December 29, 2004. The final Office action set a three (3) month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

This application file is being forwarded to Technology Center 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

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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Rogitz & Associates
750 B Street
Suite 3120
San Diego, CA 92101

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of

Hilt, et al.

Application No. 09/944,655

Filed: August 31, 2001

Attorney Docket No. 50R4741

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed June 6, 2006.

The petition is **granted**.

This application was held abandoned on April 28, 2005, after no reply was received to the final Office action mailed January 27, 2 005. The notice set forth a shortened statutory period of reply of three months from its mailing date. Extensions under 37 CFR 1.136(a) were available. No response was received within the allowable period and the application became abandoned on April 28, 2005. A Notice of Abandonment was mailed September 6, 2005. The instant petition was filed on June 6, 2006. Petitioner maintains that the notice of January 27, 2005, was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The Power of Attorney and Correspondence Address Indication Form, filed October 11, 2004, has been entered and made of record.

The application file is being forwarded to Technology Center 2100, GAU 2193, for further processing including remailing of the final Office action and resetting of the time period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA, IL 61629-6490

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JUL 2 9 2005

OFFICE OF PETITIONS

In re Patent No. 6,856,222	:	
Issue Date: February 15, 2005	:	
Application No. 09/944,669	:	ON PETITION
Filed: August 31, 2001	:	
Attorney Docket No. 96-451	:	

This is a decision on the petition under 37 CFR 1.183, filed June 24, 2005, 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 **granted**.

Telephone inquires concerning this matter may be directed to Wan Laymon at (571) 272-3220. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *See* Official Gazette of June 22, 2004

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of :
Burgin et al. :
Application No. 09/944,676 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No.: 1160215/0474949

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2006, to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of March 17, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. A two month extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 18, 2006. A Notice of Abandonment was mailed on October 3, 2006.

The petition has **not** been reviewed on the merits because the petition provided has not been signed.

Pursuant to 37 CFR 1.33, amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The signature on the petition is not a proper electronic signature. The signature contains double slashes. The electronic signature must consist only of letters of the English alphabet, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation. The person signing the correspondence must personally insert the electronic signature with a first single forward slash mark before, and a second single forward slash mark after, the electronic signature (e.g., /Dr. James T. Jones, Jr. /).

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Petitions Attorney

Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Burgin et al. :
Application No. 09/944,676 : DECISION ON PETITION
Filed: August 31, 2001 :
Title: System and Method for :
Automated End-User Support

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 12, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a complete reply to a non-final Office Action mailed March 17, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. A two month extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 18, 2006. A Notice of Abandonment was mailed on October 3, 2006.

This petition is hereby **GRANTED**.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
www.uspto.gov

Paper No. 4

David C. Ripma
Patent Counsel
Sharp Laboratories of America, Inc.
5750 NW Pacific Rim Boulevard
Camas, WA 98607

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JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Guy Eden :
Application No. 09/944,684 : DECISION ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. SLA 1086 :

This is a decision on the petition under 37 C.F.R. §1.53(e)(2), filed January 22, 2002, to accord the above-identified application a filing date of August 31, 2001, with pages 19 and 20 of the application comprising claims as a part of the original disclosure.

Application papers in the above-identified application were filed on August 31, 2001. However, on October 16, 2001, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Items in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, pages 19 and 20 of the specification appeared to have been omitted.

In response, applicant timely filed the instant petition (certificate of mailing (Monday) December 17, 2001). Applicant contends that pages 19 and 20 as transmitted with the petition were indeed included in the application as mailed to the USPTO and were in fact deposited in the USPTO with the nonprovisional application papers. In evidence thereof, applicant submits *inter alia* a copy of the complete application as originally filed, including pages 19 and 20 as filed; and a copy of their return postcard from the USPTO.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on August 31, 2001; 2) it specifically requests acknowledgment of a patent application consisting of "25 pages of specification" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the 25 pages of specification identified on the postcard were among the papers accorded a filing date of August 31, 2001.

The application papers already considered received in the Office on August 31, 2001, were reviewed along with the missing pages of specification submitted on petition. These papers together constitute the items described on the postcard receipt. Petitioner has shown that pp. 19 and 20 of the specification were among the items present in the application on the date of deposit and should be included in the original application papers.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, the authorized but not yet debited petition fee, will not be charged to petitioner's Deposit Account.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of August 31, 2001, using the application papers received in the Office and presently accorded that date; and the missing pages of specification, pp. 19 and 20, resubmitted on petition filed January 22, 2002.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should 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

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CHERSKOV & FLAYNIK
THE CIVIC OPERA BUILDING
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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Ohta Manabu et al :
Application No. 09/944,698 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 0154/01025

This is a decision on the petition, filed October 28, 2004 and supplemented on November 5, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2836 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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Richard F. Jaworski
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

MAIL

JUL 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Blackwell, et al.
Application No. 09/944,699
Attorney Docket No. 0655/62869
Filed: August 31, 2001
For: METHOD AND SYSTEM FOR SENDING, RECEIVING AND MANAGING MESSAGING DATA

SUA SPONTE WITHDRAWAL OF HOLDING OF ABANDONMENT *under 37 CFR 1.181*

The request for withdrawal of erroneously issued Notice of Abandonment, filed April 11, 2005, is being treated as a petition under 37 CFR 1.181 for withdrawal of the holding of abandonment.

A review of the application reveals that a Notice of Abandonment was mailed to the Applicant on February 9, 2005. The notice incorrectly indicated that the instant application was being held abandoned for failure to respond to the Final Rejection Office action mailed on March 8, 2004. Applicant timely filed an extension of time for three (3) months ($950.00) and a Notice of Appeal bearing a certificate of mailing under 37 CFR § 1.8(a) of September 8, 2004, such Notice and extension are currently located in the file.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**. The Office regrets any inconvenience this may have caused.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment and restore the instant application to pending status. The application will then be forwarded to the Legal Instruments Examiner for entry of the Request for Continuing Examination filed April 11, 2005 and then to the Examiner of record for prompt action on the merits.

Inquiries to this decision may be directed to Special Programs Examiner Brian Johnson at (571) 272-3595.

Brian L. Johnson 7/6/05
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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OFFICE OF PETITIONS

In re Application of	:	
Blackwell et al.	:	DECISION ON PETITION
Application No. 09/944,699	:	TO WITHDRAW
Filed: August 31, 2001	:	FROM RECORD
Attorney Docket No. 063170.8249	:	

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 8, 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 Luke K. Pedersen on behalf of all attorneys of record associated with Customer Number 05073. All attorneys/agent associated with this Customer Number have been withdrawn. Applicant is reminded that there is no attorney of record at this time. The Request for Withdrawal cannot appoint an attorney. A new Power of Attorney should be submitted from the applicants or assignee.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. The Notice mailed August 21, 2006, incorrectly changed the correspondence address to the second below-listed address. All future communications from the Office will be directed to the first named inventor at the first below-listed address until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

JONATHAN BLACKWELL
2853 CLOVER HILL COURT
TRACY, CA 95377

RICHARD F. JAWORSKI
COOPER AND DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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Paper No. 13

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OFFICE OF PETITIONS

In re Application of
Thomas Joseph Kelly, et al
Application No. 09/944,708
Filed: August 31, 2001
Attorney Docket No. 13DV1447

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed June 14, 2004, to revive the above-identified application.

The petition is GRANTED.

The Office acknowledges receipt of the Notice of Appeal filed June 14, 2004, as well as the three (3) copies of the previously submitted Appeal Brief.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9282.

This application is being forwarded to Technology Center AU 3726.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SEATTLE, WA 98104

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Ranjan et al.
Application No. 09/944,751
Filed: August 31, 2001
Attorney Docket No. INFS117874

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed April 30, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned December 16, 2006 for failure to timely reply to the non-final Office Action mailed on September 15, 2006. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed March 21, 2007.

Petitioner asserts that a reply to the non- final Office Action was submitted on March 15, 2007. As evidence, petitioner has submitted a copy of the reply which contains an amendment, a three month extension of time, and a certificate of mailing dated March 15, 2007 pursuant to 37 CFR 1.8. Petitioner has also provided a copy of a postcard receipt with an Office stamp of March 26, 2007.

The response received March 26, 2007 has been located. 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 Technology Center 3600 for further processing of amendment.

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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Paper No. 3

Kyle W. Rost
5490 Autumn Court
Greenwood Village, Colorado 80111

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Technology Center 2100

In re Application of: Robert Alldredge	)	
Application No. 09/944,761	)	DECISION ON PETITION TO
Filed: August 31, 2001	)	MAKE SPECIAL UNDER 37
For: METHODS AND APPARATUS FOR	)	C.F.R. §1.102(c) AND MPEP §
SECURED ELECTRONIC	)	708.02 (IV): APPLICANT'S AGE
COMMERCE	)	

This is a decision on the petition, filed August 31, 2001, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration by applicant, Robert Alldredge, asserting that he is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

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Intellectual Property Administration
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Andrej Kocev et al. :
Application No. 09/944,776 : DECISION ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 200301967-2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed September 20, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 21, 2007. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amended Appeal Brief, (2) the petition fee of $ 1540, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 2121 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

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THE HOPE LAW FIRM
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ATLANTA, GA 30301

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Clas Sivertsen :
Application No. 09/944,797 :
Filed: August 31, 2001 :
Attorney Docket No. 60046.0011US01 :

This is a decision on the petition under 37 CFR 1.313 (c), filed September 20, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2112 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the IDS filed June 27, 2005.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application	:	
Golovchinsky, et al.	:	
Application No. 09/944,817	:	DECISION ON APPLICATION
Filed: August 31, 2001	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. FXPL-01001US0	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)", filed June 19, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred eighty-three (483) days to six hundred ninety-four (694) 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 **six hundred ninety-four (694) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 21, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified

application. The Notice stated that the patent term adjustment (PTA) to date is four hundred eighty-three (483) days. On June 19, 2007, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is six hundred ninety-four (694) days.

Applicants assert entitlement to a patent term adjustment of six hundred ninety-four (694) days on the basis that the Office improperly assessed PTO delay for mailing a first Office action within fourteen months at six hundred, thirty-seven (637) days. Accordingly to Applicants, PTO delay should have been assessed as seven hundred forty-three (743) days. In addition, Applicants assert that they were improperly assessed Applicant delay of one hundred five (105) days for responding to an Office action, when in fact zero (0) days should have been assessed.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of four hundred eighty-three (483) days based on an adjustment for PTO delay of six hundred thirty-seven (637) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and fifty-three (53) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by Applicants' delays of thirteen (13), one hundred five (105), thirty-two (32), one (1) and fifty-six (56) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

The adjustment of six hundred thirty-seven (637) days has been found to be incorrect. A review of the file reveals that the application was filed on August 31, 2001. The Office mailed a first action on July 29, 2004, and was assessed delay of six hundred thirty-seven (637) days. However, a review of the file reveals that the Office erroneously mailed the action to the wrong address. The action was re-mailed to the correct address on November 12, 2004. Accordingly, it is concluded that the Office should have been assessed delay according to the November 12, 2004 date, or seven hundred forty-three (743) days, not the six hundred thirty-seven (637) days associated with July 29, 2004.

---

[1] Applicants filed the application for patent term adjustment on the same date as the issue fee.

In view of the above, applicant should not have been assessed one hundred five (105) days of delay for filing a response on February 11, 2005, when the Office did not mail the action to the correct address until November 12, 2004. As the February 11, 2005 reply was timely, zero (0) days of applicant delay should have been assessed with respect to this filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **six hundred ninety-four (694) days** (796 (743+56) days of PTO delay and 102 (13+32+1+56) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

PTA Calculations for Application: 09/944817			
Application Filing Date:	08/31/2001	PTO Delay (PTO):	690
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	207
Post-Issue Petitions:	0	Total PTA (days):	694
PTO Delay Adjustment:	211		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	07/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	105		
67	07/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	743		
66	07/30/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		637	
57	03/21/2007	MAIL NOTICE OF ALLOWANCE		0	
56	03/19/2007	ISSUE REVISION COMPLETED			
55	03/19/2007	DOCUMENT VERIFICATION			
54	03/19/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	03/19/2007	NOTICE OF ALLOWABILITY			
52	01/23/2007	DATE FORWARDED TO EXAMINER			
51	01/03/2007	RESPONSE AFTER NON-FINAL ACTION		56	46
50	01/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	10/20/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
48	10/13/2006	LETTER REQUESTING INTERVIEW WITH EXAMINER			
47	10/16/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
46	08/08/2006	MAIL NON-FINAL REJECTION			
45	08/07/2006	NON-FINAL REJECTION			
44	06/01/2006	DATE FORWARDED TO EXAMINER			
43	05/22/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	06/01/2006	DATE FORWARDED TO EXAMINER			
41	05/22/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		1	38
		DISPOSAL FOR A RCE/CPA/129 (EXPRESS			

40	06/01/2006	ABANDONMENT IF CPA)			
39	05/22/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	02/21/2006	MAIL FINAL REJECTION (PTOL - 326)			
37	02/16/2006	FINAL REJECTION			
36	12/13/2005	DATE FORWARDED TO EXAMINER			
35	12/05/2005	RESPONSE AFTER NON-FINAL ACTION		32	33
34	12/05/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	08/03/2005	MAIL NON-FINAL REJECTION	53		30
32	08/02/2005	NON-FINAL REJECTION			
31	05/25/2005	DATE FORWARDED TO EXAMINER			
30	02/11/2005	RESPONSE AFTER NON-FINAL ACTION		105	21
27	11/12/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
26	11/01/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
23	10/06/2004	CORRESPONDENCE ADDRESS CHANGE			
22	10/06/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
21	07/29/2004	MAIL NON-FINAL REJECTION	637		-1
20	07/26/2004	NON-FINAL REJECTION			
19	07/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	05/12/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	06/05/2002	REFERENCE CAPTURE ON IDS			
16	03/30/2004	CORRESPONDENCE ADDRESS CHANGE			
15	03/30/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
14	10/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	06/05/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/28/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	02/28/2002	APPLICATION DISPATCHED FROM OIPE			
10	02/28/2002	APPLICATION IS NOW COMPLETE			
9	02/28/2002	CORRESPONDENCE ADDRESS CHANGE			
7	01/17/2002	ADDITIONAL APPLICATION FILING FEES		13	5
6	01/17/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
		NOTICE MAILED--APPLICATION INCOMPLETE--			

5	10/04/2001	FILING DATE ASSIGNED			
4	10/04/2001	CORRESPONDENCE ADDRESS CHANGE			
3	10/04/2001	CORRESPONDENCE ADDRESS CHANGE			
2	09/07/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/31/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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In re Patent No. 6,973,536	:	
Issued: 6 December, 2005	:	
Application No. 09/944,832	:	ON PETITION
Filed: 31 August, 2001	:	
Atty Dckt No. OR01-03301	:	

This is a decision on the petition filed on 3 January, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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In re Patent No. 6701184
Issue Date: March 2,2004
Application No. 09944846
Filed: August 31,2001
Attorney Docket No. MPT:830-01

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 13,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 13,2008 . 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.

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)
6701184	2004-03-02	09944846	2001-08-31	OSI_184

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/sona dalal/	Date (YYYY-MM-DD)	2008-03-13
Name	Sona Dalal	Registration Number	50777

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OCT 25 2006

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
ATTN: C. NOEL KAMAN
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,018,837 : DECISION ON PATENT TERM
Issued: March 28, 2006 : ADJUSTMENT and NOTICE OF
Application No. 09/944,884 : INTENT TO ISSUE CERTIFICATE
Filed: August 31, 2001 : OF CORRECTION
Atty. Dkt. No.: 10466/134 :
P2548P1C15 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)," filed May 30, 2006. This matter is being properly treated under 37 CFR 1.705(d) as a timely filed application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,018,837 on March 28, 2006. The instant request for reconsideration was timely filed May 30, 2006 (certificate of mailing date of May 24, 2006) in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 534 days. Patentees argue that the patent is entitled to an adjustment of 811 days.

A review of the application history reveals that at the time of issuance, an overall adjustment of 701 days could be attributed to the Office.

As acknowledged by patentees, an adjustment of 284 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

As further acknowledged by patentees, an adjustment of 417 days in accordance with 37 CFR 1.702(a)(4) and 1.703(a)(6) can be attributed to the Office.

As to patentees' contention that the patent is entitled to an additional adjustment of 277 days in accordance with 37 CFR 1.702(b), patentees are advised that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37

C.F.R. § 1.704(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 application that 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 Red. Reg. 21704 (April 22, 2004).

Therefore, there were no adjustments accorded under 37 CFR 1.702(b) for failure to issue the patent within three years of the application filing date because the days of delay for failure to issue the patent more than three years after the filing date of the application overlap with the days of patent term adjustment accorded under 37 CFR 1.702(a).

The adjustment of 701 days is properly reduced a total of 193 days as further discussed herein.

As acknowledged by patentees, the adjustment of 701 days is properly reduced three days in accordance with 37 CFR 1.704(b).

The adjustment of 701 days is further reduced 70 days, and not 44 days as previously assessed, in accordance with 37 CFR 1.704(c)(8). The reduction began April 16, 2004, the day after the date that the initial reply to the final Office action was filed, and ended June 24, 2004, the date the supplemental reply to the final Office action was filed.

The adjustment is further reduced 120 days, the maximum period of reduction allowed, in accordance with 37 CFR 1.704(c)(10) in connection with the petition to correct inventorship filed September 13, 2004. Submission of the petition to correct inventorship after Notice of Allowance is deemed a failure to engage in reasonable efforts to conclude prosecution.

Patentees' contend that the miscellaneous paper submitted by applicants on October 4, 2004 did not constitute a failure to engage in reasonable efforts to conclude prosecution. Patentees' arguments have been considered and are found convincing. In this instance, this miscellaneous paper submitted October 4, 2004 is deemed a response to the examiner's reasons for allowance and

not a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10).

In view thereof, at the time of issuance, the patent is entitled to an adjustment of 508 days.

Any request for reconsideration of this decision must be submitted within two month of the mail date indicated above. Extensions of time under 37 CFR 1.136 are not permitted.

Receipt is hereby acknowledged of the required patent term adjustment 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 508 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

CC: Draft Certificate of Correction

may be a duplicate draft

PALM INTRANET

Day : Tuesday
Date: 9/26/2006

Time: 13:25:02

PTA Calculations for Application: 09/944884			
Application Filing Date:	08/31/2001	PTO Delay (PTO):	701
Issue Date of Patent:	03/28/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	167
Post-Issue Petitions:	0	Total PTA (days):	534
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71.5	03/08/2006	PTA 36 MONTHS			
71	03/28/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	417		67
70	02/16/2006	RECEIPT INTO PUBS			
69	02/15/2006	DISPATCH TO FDC			
68	02/15/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
67	10/04/2004	ISSUE FEE PAYMENT VERIFIED			
66	10/04/2004	MISCELLANEOUS INCOMING LETTER		120	62
65	02/08/2006	CORRESPONDENCE ADDRESS CHANGE			
64	02/08/2006	RECEIPT INTO PUBS			
63	01/20/2006	RECEIPT INTO PUBS			
62	01/13/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
61	01/12/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
60	11/17/2005	PUBS CASE REMAND TO TC			
59	09/23/2005	TC RETURN TO PUBS			
58	09/12/2005	PUBS CASE REMAND TO TC			
57	05/17/2005	RECEIPT INTO PUBS			
56	05/06/2005	RECEIPT INTO PUBS			
55	09/13/2004	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
54	04/26/2005	CORRESPONDENCE ADDRESS CHANGE			
53	04/26/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
52	04/22/2005	RECEIPT INTO PUBS			
51	12/06/2004	WORKFLOW - QUERY REQUEST - FINISH			

50	11/08/2004	WORKFLOW - QUERY REQUEST - BEGIN			
49	10/15/2004	RECEIPT INTO PUBS			
48	09/30/2004	ISSUE FEE PAYMENT RECEIVED			
47	09/13/2004	WORKFLOW INCOMING PETITION IFW			
46	09/08/2004	WORKFLOW - QUERY REQUEST - BEGIN			
45	08/16/2004	RECEIPT INTO PUBS			
44	08/04/2004	SEQUENCE FORWARDED TO PUBS ON TAPE			
43	07/30/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
42	07/14/2004	MAIL NOTICE OF ALLOWANCE			
41	07/13/2004	ISSUE REVISION COMPLETED			
40	07/13/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	07/10/2004	NOTICE OF ALLOWABILITY			
38	07/01/2004	DATE FORWARDED TO EXAMINER			
37	06/24/2004	AMENDMENT AFTER FINAL REJECTION		4	3
36	06/24/2004	REQUEST FOR EXTENSION OF TIME - GRANTED		To	31
35	05/06/2004	MAIL ADVISORY ACTION (PTOL - 303)			
34	05/05/2004	ADVISORY ACTION (PTOL-303)			
33	04/20/2004	DATE FORWARDED TO EXAMINER			
32	04/15/2004	AMENDMENT AFTER FINAL REJECTION			
31	04/15/2004	WORKFLOW INCOMING AMENDMENT IFW			
30	02/11/2004	MAIL FINAL REJECTION (PTOL - 326)			
29	02/03/2004	FINAL REJECTION			
28	12/03/2003	IFW AMENDED CASE PROCESSING COMPLETE			
27	11/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	24
26	11/14/2003	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
25	12/03/2003	DATE FORWARDED TO EXAMINER			
24	11/14/2003	RESPONSE AFTER NON-FINAL ACTION		3	23
23	08/11/2003	MAIL NON-FINAL REJECTION	284		-1
22	08/11/2003	NON-FINAL REJECTION			
21	09/03/2002	PRELIMINARY AMENDMENT			
20	07/29/2003	CORRESPONDENCE ADDRESS CHANGE			
19	07/29/2003	CORRESPONDENCE ADDRESS CHANGE			
18	07/29/2003	CORRESPONDENCE ADDRESS CHANGE			
16	05/15/2003	CASE DOCKETED TO EXAMINER IN GAU			

15	12/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
14	04/29/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/03/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	03/27/2002	X-PRE-LEGAL COMPLETE NEW CASE			
11	03/27/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	03/27/2002	X-PRE-LEGAL COMPLETE AMENDED CASE			
9	08/31/2001	PRELIMINARY AMENDMENT			
8	08/31/2001	PRELIMINARY AMENDMENT			
7	01/09/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
6	01/09/2002	APPLICATION DISPATCHED FROM OIPE			
5	01/08/2002	APPLICATION IS NOW COMPLETE			
3	08/31/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
2	09/17/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/31/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,018,837 B2
DATED	:	March 28, 2006
INVENTOR(S)	:	Filvaroff, 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 534 days

Delete the phrase "by 534 days" and insert – by 508 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PANDISCIO & PANDISCIO
470 TOTTEN POND ROAD
WALTHAM, MA 02451-1914

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of :
Arnold Miller :
Application No. 09/944,899 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. AM-4A :

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2004, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37CFR 1.113 to the final Office action of August 28, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee as required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted with the instant petition on April 29, 2004, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application. See attached Advisory Action.

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:

Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/5/05

Paper No.: ____

TO SPE OF : ART UNIT 1764

SUBJECT : Request for Certificate of Correction on Patent No.: 6790319 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.

Yes

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:

_____

_____

_____

_____

_____

SPE — **Art Unit** 1764

SPE Flynn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/944,903

Paper No.: _____

DATE : 2/14/06

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6858904

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:

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

_____ 2826

SPE **Art Unit**

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Joseph T. Guy, Ph.D.
Nexsen Pruet Jacobs & Pollard, LLC
PO Drawer 10648
Greenville SC 29603-0648

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Joseph B. Fuller	:	DECISION ON
Application No. 09/944,922	:	PETITION UNDER
Filed: 31 August 2001	:	37 CFR 1.137(b)
Attorney Docket No. 29409/01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed 23 May 2005, to revive the above-identified application. The instant application became abandoned for failure to reply to the official action mailed 15 November 2004.

The petition is **GRANTED**.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

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.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal pursuant to 37 CFR 41.31; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of 15 November 2004 is accepted as having been unintentionally delayed.

The application file is being forwarded to Technology Center 3671 for appropriate action on the concurrently filed response.

Any questions concerning this matter may be directed to Erik Kielin at (571) 272-6051, or in his absence, the undersigned at (571) 272-3217.

Karen Creasy for

Brian Hearn
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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MAY 13 2008

In re Application of :
Hageman, et al. :
Application No. 09/944,930 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. PP16021.002 :
(35784/213736)

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 31, 2003. The petition was recently forwarded to the Office of Petitions for consideration. The Office apologizes for the delay.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the Notice to File Missing Parts of Application, mailed October 18, 2001. This Notice set an extendable period for reply of two (2) months in which to submit an executed oath or declaration, a surcharge for its late filing, and substitute drawings. No reply having been received, the application became abandoned on December 19, 2001. A Notice of Abandonment was mailed on December 17, 2003.

Petitioner contends that he did timely file a reply to the Notice to File Missing Parts on January 24, 2002. In support thereof, petitioner has included a copy of a USPTO date stamped postcard receipt, dated January 24, 2002, and itemizing, *inter alia*, a declaration, substitute drawings, and a check for $130. In addition, petitioner has included a copy of the documents, including a transmittal letter which bore a Certificate of Mailing under 37 CFR 1.8 dated December 18, 2001.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to the Office of Patent Applicatoin Processing (formerly the Office of Initial Patent Examination) for pre-examination processing, using the declaration and substitute drawings shown to have been filed on January 24, 2002 (Certificate of Mailing dated December 18, 2001), a copy of which has been re-supplied with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 7

MARK P. BOURGEOIS
P.O. BOX 95
OSCEOLA, IN 46561

COPY MAILED

JAN 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Bernard Tickner :
Application No. 09/944,932 : NOTICE
Filed: August 31, 2001 :
Attorney Docket No. PH39 :

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

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JUN 0 6 2005

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application :
Botstein, et al. :
Application No. 09/944,944 : PATENT TERM ADJUSTMENT
Filed: August 31, 2001 :
Dkt. No.: 9683/70 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed February 16, 2005.

Applicants argue that the Office will have failed to issue a patent within three years from the date the instant application was filed in accordance with 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. § 1.702(b) and request an additional adjustment of 83 days.

Applicants are advised that decision on the instant request for reconsideration of patent term adjustment ("PTA") under 37 C.F.R. § 1.705(b) is hereby **held in abeyance** subject to an issuance date being set by the Office of Patent Publications at which time the PTA will be routinely recalculated.

Applicants are further advised to submit a letter to the Office within two months of the issuance of the patent if, at the time of issuance of the patent, the appropriate adjustment under 37 C.F.R. § 1.703(b) has not been accorded.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 384 days.

The Office acknowledges receipt of the required fee of $200.00 for an application for patent term adjustment. No additional fee will be required if applicant is solely requesting reconsideration of additional time related to failing to issue the patent within three years of the filing date.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

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FEB 16 2006

OFFICE OF PETITIONS

In re Application of
Botstein et al.
Application No. 09/944,944
Filed: August 31, 2001
Attorney Docket No. 10466/137

: DECISION DISMISSING PETITION

This is a decision on the "RESUBMISSION OF APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely filed October 18, 2005. Applicants request that the patent issuing from the above-identified patent application be afforded a patent term adjustment of six hundred and eighty-nine (689) days rather than the Office determination of 444 days. The earlier request for reconsideration was held in abeyance until the patent issue date.

The applicants' request for additional PTA is **dismissed.**

Applicants request an additional two hundred and forty-five days (245) of PTA based upon the application failing to issue within three years of the filing date. See 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b).

Applicants arguments are not persuasive. The Office notes 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).

In the present application, applicant received four hundred and fifty days for the Office failure to comply with 35 U.S.C. 154(b)(1)(A)(i),(ii), and (iv) and 37 CFR 1.702(a)(1), (2), and (4). Accordingly, because such periods overlap within the meaning of 37 CFR 1.703(f) , applicants are not granted any additional PTA beyond what already has been awarded.

The re-submission does not require a fee since the sole reason for re-submission relates the determination that the application does not receive any additional time under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) and that applicant paid the fee with the earlier request that was held in abeyance.

The application file is being forwarded to the file repository for storage of the patented filed.

Telephone inquiries specific to this matter should be directed to Alesia Brown, Petitions Attorney, Office of Petitions, at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Pair calculation

Day : Wednesday

PALM INTRANET

Date: 2/15/2006
Time: 14:00:36

PTA Calculations for Application: 09/944944			
Application Filing Date:	08/31/2001	PTO Delay (PTO):	450
Issue Date of Patent:	08/16/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	6
Post-Issue Petitions:	0	Total PTA (days):	444
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48.5	07/27/2005	PTA 36 MONTHS			
48	08/16/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	60		44
47	07/14/2005	RECEIPT INTO PUBS			
46	07/14/2005	DISPATCH TO FDC			
45	07/14/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	02/17/2005	ISSUE FEE PAYMENT VERIFIED			
43	07/05/2005	RECEIPT INTO PUBS			
42	06/06/2005	PETITION DECISION - DISMISSED			
41	02/16/2005	PETITION ENTERED			
40	02/16/2005	WORKFLOW INCOMING PETITION IFW			
39	02/17/2005	ISSUE FEE PAYMENT RECEIVED			
38	02/16/2005	SEQUENCE FORWARDED TO PUBS ON TAPE			
37	01/19/2005	EXPORT TO INITIAL DATA CAPTURE			
36	01/25/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
35	01/06/2005	MAIL NOTICE OF ALLOWANCE	45		28
34	01/05/2005	ISSUE REVISION COMPLETED			
33	01/04/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	01/04/2005	NOTICE OF ALLOWABILITY			
31	10/16/2004	CORRESPONDENCE ADDRESS CHANGE			
30	10/18/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
29	07/29/2004	DATE FORWARDED TO EXAMINER			
28	07/22/2004	AMENDMENT AFTER FINAL REJECTION			
27	07/22/2004	WORKFLOW INCOMING AMENDMENT IFW			

26	05/17/2004	MAIL FINAL REJECTION (PTOL - 326)	32		22
25	05/14/2004	FINAL REJECTION			
24	04/22/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	04/22/2004	DATE FORWARDED TO EXAMINER			
22	12/15/2003	RESPONSE AFTER NON-FINAL ACTION		6	19
19	09/09/2003	MAIL NON-FINAL REJECTION	313		-1
18	09/08/2003	NON-FINAL REJECTION			
17	04/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
16	12/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
15	09/03/2002	PRELIMINARY AMENDMENT			
14	09/03/2002	PRELIMINARY AMENDMENT			
13	05/01/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	02/11/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	02/06/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	02/06/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	12/20/2001	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
8	08/31/2001	PRELIMINARY AMENDMENT			
7	11/28/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	11/09/2001	APPLICATION DISPATCHED FROM OIPE			
5	11/07/2001	CORRESPONDENCE ADDRESS CHANGE			
4	10/26/2001	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	09/14/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	08/31/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	08/31/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 20, 2006

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/944983 Patent No.: 7,121,919 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE 3723 Art Unit

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ARCHANA B. VITTAL
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Craig M. Janik	:	
Application No. 09/945,018	:	DECISION ON PETITION
Filed: September 1, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 005532.P007	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on September 1, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/230,530, which was filed on September 1, 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. 60/230,530 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.

The application is being forwarded to Technology Center AU 2644 for appropriate action on the amendment submitted November 1, 2004, including consideration by the examiner of the claim under

35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/230,530.

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571)272-3228.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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Paper No. 9

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MAY 1 2 2005

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of :
Venkateswar R. Kowkutla, et al. :
Application No. 09/945,027 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. TI-31681 :

This is a decision on the petition, filed January 29, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b). The delay in responding is regretted; however, the petition was just recently referred to the Office of Petitions for consideration.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed June 17, 2003. A Notice of Abandonment was mailed on January 14, 2004. In response, on January 29, 2004, an amendment 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 petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2819 for consideration of the amendment filed July 13, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Michael N. Haynes
1341 Huntersfield Close
Keswick, VA 22947

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of :

Ann Mond Johnson et al. :
Application No. 09/945,038 : DECISION ON PETITION
Filed: August 31, 2001 : TO WITHDRAW
Attorney Docket No. : 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 18, 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 N. Haydas on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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 no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ann Mond Johnson**
543 Monroe Avenue
River Forest, IL 60305

cc: **WilmerHale**
60 State Street
Boston, MA 02109

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/945,038	08/31/2001	Ann Mond Johnson	

CONFIRMATION NO. 3056

OC000000023933196

34060
MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

Date Mailed: 05/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2007.

- 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.

Jeri S. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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ROBERT B. O'ROURKE
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
Mats Lund :
Application No. 09/945,050 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 05043.P025 :

This is a decision on the petition under 37 CFR 1.182, filed January 12, 2004, to change the name of the inventor Mats Frannhagen to Mats Lund.

The petition is **GRANTED.**

Any question concerning this decision on petition should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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December 5, 2006

Patent No. : 6,900,083 B2
Ser. No. : 09/945063
Inventor(s) : Voutsas, et al.
Issued : May 31, 2005
Title : **METHOD OF FORMING MULTI-LAYERS FOR A THIN FILM TRANSISTOR**
Docket No. : 8371-129

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.

Inspection of the application for the patent reveals, however, that in connection with the alleged error pertain to Title page, item (54) of which applicant has referred; is in fact a change by the examiner and considered to be in accordance with the permissible amendments enumerated in M.P.E.P. 1302.04.

In view of the foregoing applicants request in this matter is hereby denied.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

Stephen S. Ford
MARGER JOHNSON & McCOLLOM, P.C.
1030 S.W. Morrison Street
Portland OR 97205

CBN/eme

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COMMISSIONER FOR PATENTS
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Paper No. 7

OPPENHEIMER WOLFF & DONNELLY
P. O. BOX 10356
PALO ALTO CA 94303

JUN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
De Azevedo et al. :
Application No. 09/945,083 :
Filed: August 31, 2001 :
For: METHOD AND APPARATUS FOR DISCOVERING COMPUTER SYSTEMS IN A DISTRIBUTED MULTI-SYSTEM CLUSTER :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys of record including those associated with Customer No. 25,696 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.

Richard J. Emsf

for Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400
ATTN: BILL STREETER

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Douglas A. Mullen
DICKINSON WRIGHT PLLC
Suite 800
1901 L Street, NW
Washington, DC 20036

MAIL

MAY 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Eric L. BOYD, et al.
Application No.: 09/945,086
Filed: August 31, 2001
For: METHOD AND SYSTEM FOR PROBING A NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed January 14, 2005 and the Supplemental Request to Withdraw from Representation filed February 17, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Jon Zeeff
2601 Oak Hills Drive
Ann Arbor, MI 48103-2377

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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JUN 16 2005

STRADLING YOCCA CARLSON & RAUTH
IP Department
660 Newport Center Drive, Suite 1600
P.O. Box 7680
Newport Beach, CA 92660-6441

In re application of
Kerry Adam et al.
Application No. 09/945,105 : DECISION ON REQUEST
Filed: August 31, 2001 : FOR WITHDRAWAL OF
For: ELECTRONIC TRADING PLATFORM FOR AGRICULTURAL COMMODITIES : ATTORNEY

This is a decision on the request filed on April 25, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the attorney making the request; Monique Heyninck, does not now have, and apparently never has had, power of attorney in this application.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 05/26/05

OIPE JC1688 JUN 29 2005 PATENT & TRADEMARK OFFICE

07-01-05

3624

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	09/945,105
Filing Date	8/31/2001
First Named Inventor	Kerry Adam
Art Unit	3624
Examiner Name	Millin, Vincent A.
Attorney Docket Number	12235.0003

APPROVED

NOV 21 2005

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

☒ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ the attorneys/agents associated with Customer Number [ ]

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: the practitioner's client knowingly and freely assents to termination of employment.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number: [ ]

OR

☒ Firm *or* Individual Name	Lee Troxler				
Address	825 Las Palmas				
City	Santa Barbara	State	CA	Zip	93110
Country	USA				
Telephone	(805) 687-3626		Fax		
Signature					
Name	Jan P. Wei		Registration No.	43,253	
Date	6/29/05		Telephone No.	949-725-4000	

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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www.USCourtForms.com

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Paper No. 7

Blakely, Sokoloff, Taylor and Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

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JUN 2 6 2003

OFFICE OF PETITIONS

In re Application of	:	
Peter F. King, et al.	:	
Application No. 09/945,132	:	DECISION GRANTING PETITION
Filed: August 31, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3399P056	:	

This is a decision on the petition filed May 15, 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 **DISMISSED AS MOOT**.

If an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made. In the instant application, a notice to rescind was filed prior to the filing date of the foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii).

In view the above, the petition fee of $1300 is being credited to petitioner's deposit account as authorized.

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 2153 for examination in due course.

Marianne E. Morgan
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.

HICKMAN PALERMO TRUONG
& BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

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MAY 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Viavant et al.	:	DECISION ON
Application No. 09/945,160	:	PETITION
Filed: August 31, 2001	:	
Atty Docket No. 50277-1747	:	

This is a decision on the PETITION UNDER 37 CFR 1.183 REQUESTING WAIVER OF THE SIGNATURE OF UNAVAILABLE INVENTORS filed January 3, 2008.

The petition under 37 CFR 1.183 is **DISMISSED**.

Applicant is given TWO MONTHS from the mailing date of this decision to reply. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183." This 2-month period is governed by 37 CFR 1.181(f) and is not extendable under 37 CFR 1.136.

The above-identified application was filed on August 31, 2001. A 37 CFR 1.63 declaration signed by all of the inventors (Viavant, Farooq, Marfatia and Shukla) was filed on January 9, 2002. On January 3, 2008, applicant filed a DECLARATION UNDER 37 CFR 1.131 OF STEVEN VIAVANT. The Office did not receive any 1.131 declarations from any of the other joint inventors.

Applicant has filed the instant petition to have the 37 CFR 1.131 declaration accepted as signed by inventor Viavant. Petitioner requests waiver of the signature requirement of 37 CFR 1.131 in view of the fact that the three inventors who did

not sign the Declaration have not been employed by the assignee of the present application for several years and that their whereabouts are unknown.

37 CFR 1.131 states, in pertinent part:

> When 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.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicant does not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR 1.183 to be granted to waive the requirement that all of the joint inventors sign the § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, petitioner has not shown that diligent efforts have been undertaken to reach or find the nonsigning inventors to have them sign the § 1.131 declaration. Petitioner has not demonstrated that this is an extraordinary situation, warranting waiver of the rules.

The efforts set forth have been considered, but not found to support a conclusion that a diligent effort to reach or find the inventors was undertaken. Petitioner merely indicates that they checked with the assignee and determined that the inventors were no longer employed by the assignee. Further, the assignee did

not know their whereabouts. There is no indication in the evidence presented that reasonable efforts were undertaken to determine an address for the inventors to which mail would be deliverable. Petitioner does not indicate whether they utilized resources such as forwarding services of their postal service or such as the Internet to locate the inventors. If further attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through a working E-mail address, directory assistance, or the Internet continue to fail, then applicants will have provided the necessary proof required that the inventors cannot be reached. Details of the efforts to reach or locate the non-signing inventors should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicants should also submit documentary evidence such as the results of any E-mail or Internet searches. The Internet searches must be reasonably calculated to ascertain a current address at which to reach the inventors and attempts must be undertaken to reach the inventors at any reasonable address ascertained.

The $400 fee required for consideration of this petition under § 1.183 has been charged to Deposit Account No. 50-1302, as authorized.

Technology Center AU 2151 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for further action by the examiner in light of this decision refusing waiver of the requirement that all of the inventors sign the 1.131 declaration.

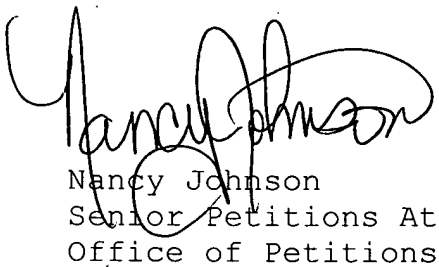
Further correspondence with respect to this matter should be addressed as follows:

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
ATTN: NANCY JOHNSON

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 2231

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Foley Hoag, LLP
Patent Group, World Trade Center West
155 Seaport Boulevard
Boston, MA 02110

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MAR 0 4 2008

OFFICE OF PETITIONS

In re Application of :
David R. Elmaleh et al. :
Application No. 09/945,166 :
Filed: August 31, 2001 :
Attorney Docket No. FLA-003.01 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 11, 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 final Office action mailed, September 21, 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 22, 2006. A Notice of Abandonment was mailed on April 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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 $60.00 extension of time filed on June 11, 2007 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1635 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.

Andrea Smith
Petitions Examiner
Office of Petitions

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DONALD SIDNEY MERRILL
APARTMENT 41
294 RIO LINDO AVE
CHICO CA 95926-5507

MAILED

MAR 0 3 2010

OFFICE OF PETITIONS

In re Application of :
Donald Sidney Merrill :
Application No. 09/945,176 : ON PETITION
Filed: September 4, 2001 :
Title: Electronic Facilitation :
Venue

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 4, 2010.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181".

The above-identified application became abandoned for failure to timely file a reply to the Notice of Non-Compliant Amendment mailed July 18, 2007. A non-final Office action had been previously mailed on April 9, 2007. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on July 5, 2007. However, the Amendment was not proper, so the Office mailed the Notice of Non-Compliant Amendment on July 18, 2007. This Notice set an extendable period for reply of one month. No reply having been received, the application became abandoned by operation of law on August 19, 2007. The Office mailed a courtesy Notice of Abandonment on February 5, 2008. Applicant has filed the instant petition nearly two years later.

With the instant petition, petitioner discusses prosecution that took place between 2004 and 2006, which has no bearing on the abandonment at issue in this application. As set forth above, the application became abandoned for failure to reply to the Notice mailed on July 18, 2007. Moreover, petitioner has not explained why it has taken him nearly two years from the mailing of this Notice of Abandonment. 37 CFR 1.181 states that any petition under that section not filed within two months may be dismissed as untimely.

While the showing of record is not sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $810; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
Privacy Act Statement (1 page)

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET, NW
WASHINGTON DC 20007

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DEC 1 1 2008

OFFICE OF PETITIONS

In re Patent No. :
6,518,280 :
Issue Date: February 11, 2003 : ON PETITION
Application No. 09/945,196 :
Filed: August 31, 2001 :
Attorney Docket No. 084437-0191 :

This is a decision on the petition, filed August 30, 2007, under 37 CFR 1.182 or alternatively 37 CFR 1.59 to expunge confidential documents inadvertently recorded in Assignment Branch. The petition is being treated as a petition under 37 CFR 1.182 to expunge an assignment previously recorded against the above-identified patent.

The petition is **DISMISSED**. This is not a final agency action within the meaning of 5 U.S.C. §704.

Petitioner complains that a previously recorded assignment document dated July 26, 2007 contains confidential information unrelated to the integrity of the assignment. Hence petitioner request expungement of the assignment as discussed in MPEP § 323.01(d).

Initially, while petitioner seeks an extraordinary remedy properly treated under 37 CFR 1.182, it is pointed out that the USPTO will not normally resort to an extraordinary remedy under 37 CFR 1.182 if the rules of practice and the procedures before the USPTO already provide and avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664 (Comm'r Pats. 1982).

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR 3.11. However, the recording of a document pursuant to 37 CFR 3.11 is not a determination by the UPSTO of the

validity of the document per se or the effect that document has on the title to a patent or application. See 37 CFR 3.54. As such, it is not necessary, or desirable, for the USPTO to expunge the purported rescission of the assignment of which petitioner complains. For example, an error in a recorded assignment is not corrected by expunging the previous document, but by simply recording a corrected document. See MPEP 323. Rather, as noted in MPEP 323, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will not be expunged, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

Petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:
(A) the normal corrective procedures outlined in MPEP § 323.01(a) through §323.01(c) will not provide the petitioner with adequate relief; and
(B) the integrity of the assignment records will not be affected by granting the petition.

Even if a petition to "expunge" a document is granted with respect to a particular application or patent, the image of the recorded document will remain in the records of the Assignment Services Division at the same reel and frame number, and the image will appear when someone views that reel and frame number. The Office will, however, delete the links to the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the Assignment Historical Database.

Nevertheless, under the circumstances of this case, petitioner may wish to resubmit the assignment (excluding the confidential information) along with a cover sheet and fee to Assignments Branch for recordation to provide the history of claimed interests in this patent.

As the instant petition is properly treated under 37 CFR 1.182, the $200 fee submitted with the petition has been refunded to petitioner's deposit account. As authorized by petitioner, $400 has been charged to deposit account 19-0741 for consideration of the petition pursuant to 37 CFR 1.182.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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FOLEY AND LARDNER, LLP
Suite 500
3000 K Street, NW
Washington, DC 2007

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JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 6,518,280
Issue Date: February 11, 2003
Application No. 09/945,196
Filed: August 31, 2001
Inventor: John F. GERSTER et al
Attorney Docket No. 084437-0191

: DECISION ON PETITION

This is a decision on the renewed petition, filed December 30, 2008, pursuant to 37 CFR § 1.182. The petition is being treated as a petition under 37 CFR §1.182 to invalidate an assignment previously recorded against the above-identified patent.

The petition under 37 CFR § 1.182 is **dismissed**.

Any reply must be submitted within TWO MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. This is not a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner has requested that the assignment record be amended. In particular, petitioner requests expungement of purportedly erroneous assignment documents at Reel 019605, Frame 0650. Petitioner submits that the assignment recorded on July 26, 2007 was submitted with an improper document attached and therefore request expungement of the assignment.

As discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:

(A) the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief; and
(B) the integrity of the assignment records will not be affected by granting the petition.

Petitioner has not proven either item A or B.

In regard to item A, there is no evidence of record that petitioner has attempted or considered any of the corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c). Also, there is no explanation of record as to why none of these procedures would provide adequate relief.

Petitioner seeks an extraordinary remedy, properly addressed under 37 CFR § 1.182. The USPTO will not normally resort to an extraordinary remedy under 37 CFR § 1.182 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982).

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR § 3.11. However, the recording of a document pursuant to 37 CFR § 3.11 is **not** a determination by the USPTO of.the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR § 3.54. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

As set forth in MPEP 323, an error in a recorded assignment is not corrected by invalidating the previous document, but by simply submitting a "corrective document". The "corrective document" must include 1) a copy of the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest; and 2) a new Recordation Form Cover Sheet (form PTO-1595). The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06. Corrections may be made on the original assignment document, for example, by lining out an incorrect patent or application number in a merger or change of name (see MPEP § 314).

Therefore, the rules of practice and the procedures before the USPTO provide an avenue for the requested relief without relying upon extraordinary measures. As a request for the Office to invalidate an assignment is both extraordinary and contrary to USPTO policy, this petition must be dismissed.

In regard to item B, the statements submitted in support of the petition to expunge fails to establish that expungement will not affect the assignment records in this instance. Petitioner should note that recordation is available for numerous documents related to a patent, not just the assignment of the entire right, title and interest in the patent. See at least MPEP § 313. Moreover, the USPTO does not determine the extent of rights transferred by the assignment papers or any recorded document. Such a determination is made by a court of relevant jurisdiction. No evidence is of record establishing that the assignment was recorded improperly. Absent sufficient evidence to support the requested expungement, the integrity of the assignment records will not be disturbed by the USPTO.

Telephone inquiries concerning this communication should be directed to the undersigned at (571)272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

2/29/08

In re Application of:
Ye, Ting Tina et al
Serial No.: 09/945,225
Filed: Aug. 31, 2001
Docket: 1001.1471102
Title: MICROCATHETER WITH IMPROVED DISTAL TIP AND TRANSITIONS

DECISION ON PETITION

This is a decision on the petition filed on Apr. 27, 2004 by which petitioner requests withdrawal the finality of the Office action of Jan. 28, 2004 and issue a new complete Office action. The petitioner states that the final rejection is premature because it was incomplete. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

In the petition, petitioner argues that the final action of Jan. 28, 2004 is not a proper final Action as the examiner fails to explain why and under what rule the examiner is interpreting "shapeable by thermoforming techniques" as a product-by-process limitation. Petitioner requests the finality of the Office Action be withdrawn and a new non-final Office action be issued.

The record shows that:

1) On Aug. 12, 2003, the examiner issued a non-final Office action rejecting all claims under 35 U.S.C. 102(e) and 103(a) based on Samson et al (U.S. Pat. 6,090,099) and in view of Nita et al (U.S. Pat. 5,951,539). The examiner also interpreted and held that some claim limitations are directed to a product by process limitation.
2) On Nov. 12, 2003, the applicant filed a response without any amendment to the claims and argued in essence that Samson et al patent does not disclose all the elements of independent claim 1.
3) On Jan. 28, 2004, the examiner issued a final Office action rejecting all claims under 35 U.S.C. 102(e) and 103(a) based on Samson et al (U.S. Pat. 6,090,099) and in view of Nita et al (U.S. Pat. 5,951,539). The final Office action was almost in verbatim as the non-final Office action.
4) On Apr. 27, 2004, the current petition was filed to request the finality of the Office Action be withdrawn and a new non-final Office action be issued.

Discussion and Analysis

With regard to the alleged rejection, this appears to be a disagreement in claim interpretation which is an appealable issue rather than a petitionable matter, presently pending at the Board of Appeals and Interferences (37 CFR 1.181(a)(1))[1]. It is noted that the examiner had responded to the applicant's/appellant's assertions in the Examiner's Answer to which appellant was able to further respond in a Reply Brief.

A review of the record shows that the instant petition was filed more than two months after the mailing date of the final Office action of Jan. 28, 2004. Pursuant to 37 CFR 1.181(f)[2], the petition is not timely filed since the petition was not filed within two months of the Office action to which the complaint refers. It is, therefore, dismissed as untimely.

Conclusion

In view of the record, petitioner's request to withdraw the finality of the Office action dated Jan. 28, 2004 is dismissed as untimely.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181".

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3763 for completing the remainder tasks as set forth in the Order Returning Undocketed Appeal to Examiner.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Frederick R. Schmidt, Director
Technology Center 3700

[1] § 1.181 Petition to the Director. (a) Petition may be taken to the Director: (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in 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] (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

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JUL 14 2005

QUINE INTELLECTUAL
PROPERTY LAW GROUP, P.C.
P. O. BOX 458
Alameda CA 94501

In re Application of:
Kuhr et al.
Serial No.: 09/945,238
Filed: August 31, 2001
Attorney Docket No.: 407T-300200US

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181 filed on May 31, 2005, requesting withdrawal of the holding of abandonment based on failure to respond to an Office action.

A review of the file history shows that the Office mailed an Office action, setting a one-month statutory time period for reply, to applicants on September 30, 2003. A notice of Abandonment was mailed to applicants on April 19, 2005. Applicants' point out that the Office action was sent to an incorrect correspondence address as evidenced by the address on the Office action of September 30, 2003. Applicants also point out that the notice of Abandonment went to the correct correspondence address. In view of this error, this application is restored to pending status with the mailing date of this decision.

Applicant's petition is **GRANTED**.

This application will be forwarded to the examiner for prompt remailing of the Office action.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6725545
Issue Date: April 27,2004
Application No. 09945264
Filed: August 31,2001
Attorney Docket No. 3907.001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 17,2008 . 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.

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)
6725545	2004-04-27	09945264	2001-08-31	3907.001

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	/Dennis G. LaPointe/	Date (YYYY-MM-DD)	2008-06-17
Name	DENNIS G. LAPOINTE	Registration Number	40693

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 04/20/2010

Applicant	: Manoel Tenorio	: DECISION ON REQUEST FOR
Patent Number	: 7620575	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/945,297	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/31/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1747** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE M. Lee

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/945,361

Paper No.: _____

DATE : 6/22/05

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction on Patent No.: 6837439

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:

The request for issuing the above-identified correction is approved.

MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2876
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application :
Jason N. Farmer :
Application No. 09/945,370 : DECISION ON APPLICATION
Filed: August 31, 2001 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 60988-P002US-10103486 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)...," filed January 13, 2005. Applicants request 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 three hundred two (302) 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 thirty two (332) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 14, 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-two. On January 13, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is three hundred two (302) days. Applicants dispute the reduction of fifty-eight (58) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed October 9, 2001.

The Office initially determined a patent term adjustment of two hundred eighty-two (282) days based on an adjustment for PTO delay of three hundred forty (340) days

[1] PALM records indicate that the Issue Fee was received in the Office on January 13, 2005.

pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) reduced by applicants' delay of fifty-eight (58) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 340 days has been reviewed and found to be correct. The reduction of twenty (58) days of applicant delay is at issue.

The reduction of 58 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 October 9, 2001, is of record in the application with a date of receipt by the Office of January 17, 2002. 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 March 8, 2002 or assessed applicants a delay of fifty-eight (58) days. The response however was not filed within the three-month period under 37 CFR 1.704(b), the response was received eight days over the three-month period for reply and accordingly, applicant's delay should have been assessed as eight (8) days. Applicant is advised that the period set forth in the Notice to File Missing Parts for reply has no effect on the three-month period set forth in this paragraph. See 37 CFR 1.704(b).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred thirty-two (332) days.

The petition fee in the amount of $200.00, as set forth in 37 CFR 1.18(e), has been charged to deposit account no.06-2380, per the authorization in the petition. 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.

Karin Ferriter for
Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

In re Patent No. 6,907,051 : DECISION ON REQUEST FOR
Issued: June 14, 2005 : RECONSIDERATION OF
Application No. 09/945,370 : PATENT TERM ADJUSTMENT
Filed: August 31, 2001 : AND
Attorney Docket No. 60988-P002US-10103486 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed August 8, 2005.

The request is **GRANTED.**

On October 14, 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 eighty-two days. On January 13, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is three hundred two (302) days. Applicants disputed the reduction of fifty-eight (58) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed October 9, 2001.

On June 14, 2005, the above-identified application matured into U.S. Patent No. 6,907,051, with a revised PTA of two hundred forty-four (244) days. The instant application for PTA, filed August 8, 2005, was timely filed within two months of the patent grant. Patentees maintain that the patent should have issued with a patent term adjustment of 302 days.

On May 4, 2005, a decision granting the January 13, 2005 "Application for Patent Term Adjustment", advised that because the response to the Notice to File Missing Parts was not filed within the three-month period under 37 CFR 1.704(b), the response was received eight days over the three-month period for reply and accordingly, applicant's delay should have been assessed as eight (8) days. Applicant was further advised that

[1] PALM records indicate that the Issue Fee was received in the Office on January 13, 2005.

the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred thirty-two (332) days.

After the issuance of the patent however, additional delays have been recorded that again have caused the Patent Term to adjust. Specifically, 32 days were added for PTO delay in issuance of the patent and 120 days were deducted for applicant delay for a miscellaneous incoming letter filed on January 13, 2005. A review of the application record reveals that the reduction of 120 days was based on the filing after allowance of an Application for Patent Term Adjustment, filed January 13, 2005. Thus, it is concluded that the patent term adjustment should not have been reduced by 120 days.

The submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section. *See 37 CFR 1.704(e).*

In view thereof, the patent term adjustment should be three hundred sixty-four **(364)** days.

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 three hundred sixty-four (364) days

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Patricia Faison-Ball at (571) 272-3212.

Kery A Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WALLENSTEIN & WAGNER
311 S. WACKER DRIVE, 53RD FLOOR
CHICAGO, IL 60606-6630

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APR 25 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mark J. Doty et al :
Application No. 09/945,374 :
Filed: August 31, 2001 :
Attorney Docket No. CRD-5715CIP :

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 **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 March 11, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 12, 2004.

The Power of Attorney ... filed on April 8, 2005 has not been entered since the person signing for the assignee has omitted his/her empowerment to sing on behalf of the assignee.

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: BAXTER DEPARTMENT
BAXTER INTERNATIONAL INC
ONE BAXTER PARKWAY
DEERFIELD, IL 60015

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BAXTER HEALTHCARE CORPORATION
1 BAXTER PARKWAY
DF2-2E
DEERFIELD IL 60015

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OFFICE OF PETITIONS

In re Patent No. 7,067,143 :
Issued: June 27, 2006 :
Application No. 09/945,374 : PATENT TERM ADJUSTMENT
Filed: August 31, 2001 :
Dkt. No.: CRD-5715CIP :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed July 27, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 7,067,143 on June 27, 2006. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of zero days. Patentees argue that the application is entitled to an adjustment of 319 days rather than the zero days of adjustment presently accorded.

At the time of issuance, an adjustment of 665 days could be attributed to the Office (224 days in accordance with 37 CFR 1.702(a)(1); 323 days in accordance with 37 CFR 1.702(a)(4); and 118 days in accordance with 37 CFR 1.702(b)).

The adjustment of 665 days is properly reduced a total of 367 days for applicants' delay under 37 CFR 1.704 (a pre-allowance reduction of 20 days under 37 CFR 1.704(b); a pre-allowance reduction of 29 days in accordance with 37 CFR 1.704(b); and a post-allowance adjustment of 318 days in accordance with 37 CFR 1.704(c)(3)(i)).

The pre-allowance reductions totaling 49 days are not under review.

The post-allowance reductions total 318 days, the calculation for which is set forth herein.

The adjustment is properly reduced 318 days in accordance with 37 CFR 1.704(c)(3)(i) in connection with the revival of the application on April 25, 2005. The reduction began June 12, 2004, the date of abandonment, and ended April 25, 2005, the date that the application was revived.

It is noted that a reduction under 37 CFR 1.704(b) in connection with the submission of the issue fee payment would not be appropriate because the time period of this reduction (from June 12, 2004, the day after the date that the issue fee payment was due, and April 8, 2005, the date the issue fee payment was received) overlaps with the period of reduction accorded under 37 CFR 1.704(c)(3)(i) (June 12, 2004 to April 25, 2005).

It is further noted that a reduction under 37 CFR 1.704(c)(4) in connection with the submission of the petition under 37 CFR 1.137(b) would not be appropriate because the time period of this reduction (October 1, 2004, the day after the date that is two months after the date that the Notice of Abandonment was mailed, and April 8, 2005, the date the petition to revive was filed) overlaps with the period of reduction accorded under 37 CFR 1.704(c)(3)(i) (June 12, 2004 to April 25, 2005).

In view thereof, at the time of issuance, the application was entitled to a patent term adjustment of 298 days (adjustment of 665 days less reductions of 367 days).

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 298 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,067,143 B2

DATED : June 27, 2006

INVENTOR(S) :

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days

Delete the phrase "by 0 days" and insert – by 298 days--

Day : Thursday
Date: 12/27/2007

PALM INTRANET

Time: 10:12:08

PTA Calculations for Application: 09/945374			
Application Filing Date:	08/31/2001	PTO Delay (PTO):	665
Issue Date of Patent:	06/27/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	665
Post-Issue Petitions:	0	Total PTA (days):	298
PTO Delay Adjustment:	298		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	12/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		6	
52	12/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	3		
51	12/27/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	301		
46.5	06/07/2006	PTA 36 MONTHS	118		
46	06/27/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	323		35
45	04/28/2006	RECEIPT INTO PUBS			
44	04/27/2006	DISPATCH TO FDC			
43	04/08/2005	ISSUE FEE PAYMENT VERIFIED			
42	04/24/2006	CORRESPONDENCE ADDRESS CHANGE			
41	04/25/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
40	04/11/2006	RECEIPT INTO PUBS			
39	04/11/2006	RECEIPT INTO PUBS			
38	03/03/2006	WORKFLOW - FILE SENT TO CONTRACTOR			
37	06/08/2005	EXPORT TO INITIAL DATA CAPTURE			
36	06/08/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
35	04/08/2005	ISSUE FEE PAYMENT VERIFIED		301	25
34	04/25/2005	MAIL-RECORD PETITION DECISION OF GRANTED TO ACCEPT DELAYED PAYMENT OF ISSUE FEE		315	25
33	04/08/2005	PETITION ENTERED			
32	04/11/2005	ISSUE FEE PAYMENT RECEIVED			
31	07/30/2004	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
30	07/30/2004	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			

28	06/15/2004	RECEIPT INTO PUBS			
27	04/05/2004	RECEIPT INTO PUBS			
26	04/02/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
25	03/11/2004	MAIL NOTICE OF ALLOWANCE			
24	03/09/2004	ISSUE REVISION COMPLETED			
23	03/09/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
22	03/08/2004	NOTICE OF ALLOWABILITY			
21	02/17/2004	IFW AMENDED CASE PROCESSING COMPLETE			
20	02/17/2004	DATE FORWARDED TO EXAMINER			
19	01/22/2004	RESPONSE AFTER NON-FINAL ACTION		29	17
18	01/22/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	09/24/2003	MAIL NON-FINAL REJECTION			
16	09/22/2003	NON-FINAL REJECTION			
15	07/20/2003	DATE FORWARDED TO EXAMINER			
14	07/14/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
13	06/12/2003	MAIL RESTRICTION REQUIREMENT	224		-1
12	06/12/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
11	06/05/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	06/05/2003	APPLICATION DISPATCHED FROM OIPE			
9	11/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	01/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	02/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	01/29/2002	APPLICATION IS NOW COMPLETE		20	5
5	10/09/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	10/06/2001	CORRESPONDENCE ADDRESS CHANGE			
3	10/05/2001	CORRESPONDENCE ADDRESS CHANGE			
2	09/10/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/31/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN/PDC
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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OFFICE OF PETITIONS

In re Patent No. 7,127,238 :
Issue Date: October 24, 2006 :
Serial No. 09/945,414 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. 3399P066 :
For: METHOD AND APPARATUS FOR USING CALLER ID INFORMATION IN A BROWSER OF A MOBILE COMMUNICATION DEVICE :

This is a decision on the petition under 37 CFR 1.183, filed October 16, 2006, which requests late entry of an amendment filed after allowance.

The petition is dismissed.

A Notice of Allowance and Fee(s) Due and a Notice of Allowability were mailed on June 19, 2006. The Notice of Allowability contained an Examiner's Amendment. The first paragraph of the Examiner's Amendment states "... Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee."

Petitioners filed a 312 amendment on August 23, 2006 concurrently with the issue fee. The amendment was not entered, as was communicated to petitioners in the September 20, 2006 Response to Rule 312 Communication.

The present petition was filed on October 16, 2006.

The application matured in U.S. Patent No. 7,127,238 on October 24, 2006.

Consideration of an amendment under 37 CFR 1.312 cannot be demanded as a matter of right. Prosecution of an application should be conducted before, and thus be complete

including editorial revision of the specification and claims at the time of the Notice of Allowance. However, where amendments of the type noted are shown (A) to be needed for proper disclosure or protection of the invention, and (B) to require no substantial amount of additional work on the part of the Office, they may be considered and, if proper, entry may be recommended by the primary examiner. MPEP 714.16

The present petition and amendment were filed after payment of the issue fee. They were not considered prior to the patenting of the application.

Once a patent has been granted, the U.S. Patent and Trademark Office can take no action concerning it, except as provided in 35 U.S.C. 135, 35 U.S.C. 251 through 256, 35 U.S.C. 302 through 307 and 35 U.S.C. 311 through 316. MPEP 1305

Petitioners' only viable option is reissue.

This patent file is being returned to the Files Repository.

Inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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ANDRE M. GIBBS
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Stephen Brunner, et al. :
Application No. 09/945,441 : DECISION ON PETITION
Filed: August 31, 2001 : TO WITHDRAW
Attorney Docket No. 005306.P028 : 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 15, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on August 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the 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: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/945,441	08/31/2001	Stephan Brunner	05306.P028

CONFIRMATION NO. 3599

OC000000021245747

OC000000021245747

Andre M. Gibbs
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1030

Date Mailed: 11/16/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/21/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

April M Wise

APRIL M WISE
OP (571) 272-1642

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Irell & Manella LLP
840 Newport Center Drive
Suite 400
Newport Beach CA 92660

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JAN 16 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
John Vanelli
Application No. 09/945,447
Filed: August 31, 2001
For: APPARATUS AND METHOD FOR PROVIDING CONSOLIDATED MEDICAL INFORMATION

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on December 9, 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 condition (B) above.

As to condition (B), since the Power of Attorney was given by the inventor, the inventor is the client. Documentation in the form of assignment papers or statement under 37 CFR 3.73(b) is needed to designate an assignee as the client.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3866
Facsimile No.: (703) 605-0586

Kjd;nlw 01/10/02

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Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles CA 90025-1030

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SEP 2 9 2006

OFFICE OF PETITIONS

In re Application of :
BRUNNER, et al. :
Application No. 09/945,448 : DECISION ON PETITION
Filed: August 31, 2001 : TO WITHDRAW
Attorney Docket No. 05306.P035 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 26, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Marina Portnova has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Campbell, Stephenson Asocolese, LLP**
4807 Spicewood Springs Rd.
Bldg. 4, Suite 201
Austin, TX 78759

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/945,448	08/31/2001	Stephan Brunner	05306.P035

CONFIRMATION NO. 3554

OC000000020594186

Andre M. Gibbs
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1030

Date Mailed: 09/26/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/945,448	08/31/2001	Stephan Brunner	05306.P035

CONFIRMATION NO. 3554

OC000000020594294

60975
CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

Date Mailed: 09/26/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

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.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re Application of :
Stephan Brunner et al :
Application No. 09/945,448 : DECISION GRANTING PETITION
Filed: August 31, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 05306.P035 :

This is a decision on the petition, filed October 4, 2006, 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 August 29, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the

USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center Art Unit 2191.

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MARINA PORTNOVA
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085

In re Application of :
Brunner, et al. :
Application No. 09/945,450 : DECISION ON PETITION
Filed: August 31, 2001 : TO WITHDRAW
Attorney Docket No. 005306.P036 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2006

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman has been revoked by the assignee of the patent application on September 5, 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: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/945,450	08/31/2001	Stephan Brunner	05306.P036

CONFIRMATION NO. 3552

Andre M. Gibbs
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1030

OC000000020464427
OC000000020464427

Date Mailed: 09/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

APRIL M WISE
OPA (571) 272-1642

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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

In re Application of :
Stephan Brunner et al :
Application No. 09/945,450 :
Filed: August 31, 2001 :
Attorney Docket No. OIC0231US :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 4, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on August 29, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The 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 will be mailed in a separate correspondence.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3625 for examination in due course.

Irvin Dingle
Petitions Examiner
Office of Petitions

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 04/26/2010

Applicant	: Stephan Brunner	: DECISION ON REQUEST FOR
Patent Number	: 7650296	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/945,450	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/31/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1499** 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.

#4
DW

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TC 3600

Harold F. Hynes
108 S. 5th St.
Atwood, KS 67730

In re Application of	:	DECISION ON PETITION
Harold F. Hynes	:	TO MAKE APPLICATION
SERIAL NO: 09/945,467	:	SPECIAL (HEALTH)
FILED: September 4, 2001	:	
FOR: ONE PAGE PURCHASING SYSTEM	:	

This is a decision on your petition submitted on March 1, 2002, to make the above-referenced application special on the basis of applicant's health. .

The petition has been found to comply with all requirements of section 708.02, part III of the Manual of Patent Examining Procedures, and will be GRANTED for that reason.

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.

The application is being forwarded to the examiner for accelerated examination consistent with the provisions of section 708.02 of the MPEP.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
dw/kd: 04/30/02

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TEN SOUTH WACKER DRIVE
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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Daryle Lee Petersen	:	DECISION ON APPLICATION
Application No. 09/945,471	:	FOR
Filed: August 30, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 11738.00029	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 16, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from sixty (60) days to one hundred twenty-five (125) days.

The application for patent term adjustment is **DISMISSED**.

On March 23, 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 60 days. The instant application for patent term adjustment was timely filed prior to payment of the issue fee on June 17, 2005. Applicant disputes a reduction of 65 days associated with the filing of a terminal disclaimer after the filing of a response. Applicant contends that the terminal disclaimer was requested by the examiner and thus, no reduction is warranted.

Applicant acknowledges that the patent issuing from this application is subject to a terminal disclaimer.

37 C.F.R. § 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;

Applicant's assertion is not supported, and thus, is not persuasive. The record does not support a conclusion that the terminal disclaimer was expressly requested by the examiner within the meaning of § 1.704(c)(8). Accordingly, the period of reduction was properly calculated as 65 days, the number of days in the period beginning on December 14, 2004 and ending on February 16, 2005.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is sixty (60) days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for processing into a patent. The patent term adjustment indicated in the patent will include any additional days accrued for Office delay in issuing the patent after payment of the Issue Fee and satisfaction of all outstanding requirements.

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

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Morrison & Foerster
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013

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OCT 0 1 2004

Technology Center 2100

In re Application of:
Hui HU, et al.
Application No. 09/945,479
Filed: August 31, 2001
For: ON-LINE IMAGE PROCESSING AND COMMUNICATION SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed May 26, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on June 17, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Schwegman, Lundberg, Woessner & Kluth, P.A. as the attorney(s) of record of the instant application. The Power of Attorney of June 17, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Schwegman, Lundberg, Woessner & Kluth, P.A.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
703-305-9750

cc: Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

December 7, 2004

Peter I. Lippman
Hewlett Packard Company
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 90528-9599

In re application of:
Ferran Vilanova, et al
No.: 09/945,492
Filed: August 31, 2001
For: "CLOSED-LOOP COLOR CORRECTION USING FACTORY-MEASURED COLOR CUTOFFS ANCHORED TO FIELD-MEASURED BLACK-AND-WHITE"

This is a decision on the petition received by fax on July 29, 2004, to withdraw the holding of abandonment in the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.D.R. 1.113 in a timely manner to the Notice to File Missing Parts of Application mailed October 4, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, the above-identified application became abandoned on December 5, 2001.

On December 4, 2001, Counsel responded to the Notice to File Missing Parts of Application. Unfortunately, the response was misplaced in the office.

The application will be completed with the documents received with the petition on July 29, 2004. The surcharge fee of $130 will be charged to Counsel account.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402-0938

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Leonard Forbes :
Application No. 09/945,500 : ON PETITION
Filed: August 30, 2001 :
Attorney Docket No. 1303.029US1 :

This is a decision on the petition, filed July 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 27, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2827 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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SEP 10 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Glenn Martyn
PETSCAPE, INC.
827 Royalwood Lane
Oviedo, FL 32765

In re Application of
Glenn Joseph Martyn
Application No. 09/945,501
Filed: August 31, 2001
For: CAT TREE, LITTER BOX, AND WATERFALL DEVICES

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 (USPTO), on August 10, 2004.

The petition is **Dismissed**.

A review of the file record reveals that a Notice of Allowability and Notice of Allowance and Issue Fees Due (hereinafter "Office action") were mailed to applicant on February 19, 2004. Since the issue fee was not received before the expiration of the three month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on July 6, 2004.

The petitioner states that the Office action mailed February 19, 2004 was never received by him at the above address.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Applicant's (in this case the inventor, Mr. Glenn Martyn) statements of non-receipt should include a statement by him, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted.

Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 9/7/04

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

GLENN MARTYN
PETSCAPE, INC.
827 ROYALWOOD LANE
OVIEDO, FL 32765

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of
Glenn Joseph Martyn
Application No. 09/945,501
Filed: August 31, 2001
Title of Invention: **CAT TREE, LITTER BOX, AND WATERFALL DEVICES**

ON PETITION

This is a decision on the renewed petition filed March 20, 2006, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on April 20. 2004 for failure to timely pay the issue fee in response to the Notice of Allowance mailed February 19, 2004. Accordingly, a Notice of Abandonment was mailed July 6, 2004.

The file record discloses that the Notice of Allowance was mailed to what was believed to be the address of record. However, petitioner contends that it was not received.

A petition filed August 10, 2004 to withdraw the holding of abandonment was dismissed in a decision mailed September 10, 2004 because the evidence presented was insufficient to prove non-receipt of the Notice of Allowance in the instant application.

In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. 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 at the address of record. As was indicated in the decision on petition mailed September 10, 2004, the requirement for an argument under 37 CFR 1.181 is that copies of the actual docket

records or file jacket be provided. That requirement has still not been met.

The instant petition reiterates the same argument made in the petition filed August 10, 2004. With the renewed petition petitioners have provided an explanation as to the handling of and docketing of mail but has not submitted copies of the actual docket records or file jacket.

It is understood that petitioner is a *pro se* inventor and that *pro se* applicants may not have as elaborate a docketing system as a law firm. This does not warrant a total waiver of the requirement of a showing that includes copies of docket records or an adequate proxy for such copies. A *pro se* applicant should have some written records evidencing receipt of communications from and mailing of communications to the Office available to provide proof of nonreceipt. It is suggested that pro se applicants maintain a log of communications from and to the Office, with dates of receipt, due dates and mailing dates of responses and other papers filed noted. Furthermore, applicants may maintain entries on the file jackets noting these important dates. Absent such evidence, applicants may not be able to overcome the presumption that the correspondence was properly mailed and received at the correspondence address of record and thereafter, misplaced by applicants.

In view thereof, the holding of abandonment cannot be withdrawn.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m) ($675.00);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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

GLENN MARTYN
PETSCAPE, INC.
827 ROYALWOOD LANE
OVIEDO, FL 32765

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APR 26 2006

OFFICE OF PETITIONS

In re Application of :
Glenn Joseph Martyn :
Application No. 09/945,501 : ON PETITION
Filed: August 31, 2001 :
Title of Invention: **CAT TREE, LITTER BOX, AND WATERFALL DEVICES** :

This is a decision on the second renewed petition filed April 13, 2006, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on April 20, 2004 for failure to timely pay the issue fee in response to the Notice of Allowance mailed February 19, 2004. Accordingly, a Notice of Abandonment was mailed July 6, 2004. A petition filed August 10, 2004 to withdraw the holding of abandonment was dismissed in a decision mailed September 10, 2004 because the evidence presented was insufficient to prove non-receipt of the Notice of Allowance in the instant application. A renewed petition filed March 20, 2006 was again dismissed in a decision mailed April 5, 2006.

Comes now petitioner with a second renewed petition arguing that the Notice of Allowance mailed February 19, 2004 was never received even though the file record discloses that the Notice of Allowance was mailed to what was believed to be the address of record.

As in the previous two decisions, it was set out that in a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. 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 at the address of record. As was indicated in the decision on petition mailed September 10, 2004, the requirement for an argument under 37 CFR 1.181 is that copies of the actual docket records or file jacket be provided. That requirement has still not been met.

As with the petitioner's previous two efforts to have the holding of abandonment withdrawn, petitioner has provided an explanation as to the handling of and docketing of mail but as with the previous efforts, petitioner has still not provided copies of the actual docket records or file jackets. The instant petition reiterates the same arguments made in the petitions filed August 10, 2004 and March 20, 2005 and in each decision dismissing the petition, petitioner is advised to either provide the office with a showing or file a petition to revive under 37 CFR 1.137(a) or (b).

The two step process used by the petitioner and his father in law, in retrieving the mail and filing the mail is just one part of the showing required. The agency is most concerned that if after retrieving the mail that perhaps it got lost by petitioner or his father-in law and without a showing of the file jacket and a notation thereon, where the mail would have been stored had it been received, there is no proof that the petitioner was not at fault in this instance.

Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m) ($675.00);
>
> (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).

In view thereof, the holding of abandonment cannot be withdrawn.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLENN MARTYN
PETSCAPE, INC.
4440 BRIGHTON BLVD
MIMS, FL 32754

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MAY 18 2006
OFFICE OF PETITIONS

In re Application of :
Glenn Joseph Martyn :
Application No. 09/945,501 : ON PETITION
Filed: August 31, 2001 :
Title of Invention: **CAT TREE, LITTER BOX, AND WATERFALL DEVICES** :

CORRECTED DECISION[1]

This is a decision on the second renewed petition filed April 13, 2006, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on April 20, 2004 for failure to timely pay the issue fee in response to the Notice of Allowance mailed February 19, 2004. Accordingly, a Notice of Abandonment was mailed July 6, 2004. A petition filed August 10, 2004 to withdraw the holding of abandonment was dismissed in a decision mailed September 10, 2004 because the evidence presented was insufficient to prove non-receipt of the Notice of Allowance in the instant application. A renewed petition filed March 20, 2006 was again dismissed in a decision mailed April 5, 2006.

Comes now petitioner with a second renewed petition arguing that the Notice of Allowance mailed February 19, 2004 was never received even though the file record discloses that the Notice of Allowance was mailed to what was believed to be the address of record.

---

[1]This decision is re-mailed for the purposes of correcting the mailing address pursuant to the March 20, 2006 request to change the correspondence address. The period for reply runs from the mail date of this decision.

As in the previous two decisions, it was set out that in a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. 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 at the address of record. As was indicated in the decision on petition mailed September 10, 2004, the requirement for an argument under 37 CFR 1.181 is that copies of the actual docket records or file jacket be provided. That requirement has still not been met.

As with the petitioner's previous two efforts to have the holding of abandonment withdrawn, petitioner has provided an explanation as to the handling of and docketing of mail but as with the previous efforts, petitioner has still not provided copies of the actual docket records or file jackets. The instant petition reiterates the same arguments made in the petitions filed August 10, 2004 and March 20, 2005 and in each decision dismissing the petition, petitioner is advised to either provide the office with a showing or file a petition to revive under 37 CFR 1.137(a) or (b).

The two step process used by the petitioner and his father in law, in retrieving the mail and filing the mail is just one part of the showing required. The agency is most concerned that if after retrieving the mail that perhaps it got lost by petitioner or his father-in law and without a showing of the file jacket and a notation thereon, where the mail would have been stored had it been received, there is no proof that the petitioner was not at fault in this instance.

Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m) ($675.00);
>
> (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).

In view thereof, the holding of abandonment cannot be withdrawn.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 29, 2006

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/945512 patent No.: 7,087,954 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 2812

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM C. SCHUBERT
RAYTHEON COMPANY
2000 EAST EL SEGUNDO BLVD.
P.O. BOX 902
EL SEGUNDO CA 90245

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of
James A. Finch et al.
Application No. 09/945,518
Filed: August 31, 2001
Attorney Docket No. 01W028

ON PETITION

This is a decision on the petition filed November 5, 2004 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned June 12, 2004 for failure to timely pay the issue fee on or before June 11, 2004. Accordingly, the Notice of Abandonment was mailed October 12, 2004.

The issue fee and petition fee, in accordance with 37 CFR 1.18, has been charged to deposit account no. 50-0616 as per your authorization. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/945527	09/04/01	NIKITIN, ARKADY	

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

EXAMINER	
LE, JOHN	
ART UNIT	PAPER NUMBER
2863	10

DATE MAILED: 9/16/04

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed _____**

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded. ~~The issue fee receipt will be mailed within six weeks.~~**

For Kendrick Jarvill
Manager, Publishing Division
Office of Patent Publication

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

Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: Patrick Hilt	: DECISION ON REQUEST FOR
Patent Number	: 7660875	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/945,583	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/31/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2598** 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
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OFFICE OF PETITIONS

In re Application :
Bostein, et al. :
Application No. 09/945,584 : PATENT TERM ADJUSTMENT
Filed: August 31, 2001 :
Dkt. No.: P2548P1C20 :

This letter is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.704(b)," filed February 7, 2005.

Applicants argue that the Office will have failed to issue a patent within three years from the date the instant application was filed in accordance with 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. § 1.702(b) and request an additional adjustment of 66 days.

Applicants are advised that decision on the instant request for reconsideration of patent term adjustment ("PTA") under 37 C.F.R. § 1.705(b) is hereby **held in abeyance** subject to an issuance date being set by the Office of Patent Publications at which time the PTA will be routinely recalculated.

Applicants are further advised to submit a letter to the Office within two months of the issuance of the patent if, at the time of issuance of the patent, the appropriate adjustment under 37 C.F.R. § 1.703(b) has not been accorded.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 148 days.

The Office acknowledges receipt of the required fee of $200.00 for an application for patent term adjustment. No additional fee will be required if applicant is solely requesting reconsideration of additional time related to failing to issue the patent within three years of the filing date.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

/Karin Ferriter/

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Patent No. 6,908,993 :
Issued: June 21, 2005 :
Application No. 09/945,584 : PATENT TERM ADJUSTMENT
Filed: August 31, 2001 :
Dkt. No.: P2548P1C20 :

This is a decision on the "RESUBMISSION OF APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 22, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **DISMISSED**.

An application for patent term adjustment was filed in the above-identified application on February 7, 2005. The application argued that an adjustment under 37 CFR 1.702(b) should be accorded because the Office would have failed to have issued a patent on the instant application within three years of the date upon which the application was filed. A decision was mailed in response to the application on April 11, 2005. The decision advised application that a decision on the merits of applicants' arguments under 37 CFR 1.702(b) would be held in abeyance subject to issuance of the patent. The decision advised applicants to resubmit a request within two months of the issue date of the patent if at the time of issuance applicants believed that the proper adjustment under 37 CFR 1.702(b) had not been accorded.

The above-identified application matured into U.S. Pat. No. 6,908,993 on June 21, 2005. The patent issued with a PTA of 217 days. The instant request was timely submitted within two months of the issue date of the patent.

Applicants argue that that the patent is subject to an additional adjustment of 223 days under the provisions of 37 CFR 1.702(b) for the Office's failure to issue the patent within three years from the date upon which the application was filed.

A review of the application history reveals that in accordance with 37 CFR 1.702(a)(1), an adjustment of 223 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 14 months after the date on which the application was filed.

A further adjustment of 14 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(4) for failure to issue the patent within four months of the date of issue fee payment.

A further adjustment of 57 days in accordance with 37 CFR 1.702(b) can be attributed to the Office for failure to issue the application within three years of the date upon which the application was filed.

Applicants argue that the patent is entitled to an additional adjustment of 223 days in accordance with 37 CFR 1.704(b) for the Office's failure to issue the patent within three years from the date upon which the application was filed.

Applicants are correct in that the Office did not issue the patent within 3 years of its filing date of August 31, 2001. Specifically, the patent issued on August 31, 2005, three years and 294 days after its filing date. Thus, the period of delay under 35 USC 154(b)(1)(B) and 37 CFR 1.702(b) is 294 days. *See*, 37 C.F.R. § 1.703(b).

However, if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) and 37 C.F.R. §1.702(b), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, 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 C.F.R. § 1.703(f). *See*, also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the periods of delay totaling 237 days attributable to grounds specified in § 1.702(a)(1) and § 1.702(a)(4) overlap with the 294 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 294 days.

In view thereof, at the time of issuance, the patent was entitled to an adjustment of 294 days.

However, the adjustment of 294 days was properly reduced a total of 77 days for applicants' failure to engage in reasonable efforts to conclude prosecution (or processing).

The adjustment of 294 days was reduced four days in accordance with 37 CFR 1.704(b) for the period of time in excess of three months taken to reply to the non-final Office action mailed June 11, 2003.

The adjustment of 294 days was further reduced four days in accordance with 37 CFR 1.704(b) for the period of time in excess of three months taken to reply to the second non-final Office action mailed November 20, 2003.

The adjustment of 294 days was further reduced 67 days in accordance with 37 CFR 1.704(b) for the period of time in excess of three months taken to reply to the final Office action mailed April 23, 2004.

The adjustment of 294 days was further reduced two days in accordance with 37 CFR 1.704(b) for the period of time in excess of three months taken to reply to the Notice of Allowance action mailed November 5, 2004.

In view thereof, the patent was entitled to an adjustment of 217 days at the time of issuance, as indicated on the patent.

Any request for reconsideration of this decision must be submitted within 30 days. The time period for reconsideration may not be extended pursuant to 37 CFR 1.136.

The Office acknowledges prior receipt of the required fee of $200.00 for an application for patent term adjustment.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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DEC 2 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,936,254	:	DECISION ON
Eaton, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: August 30, 2005	:	AND
Application No. 09/945,587	:	NOTICE OF INTENT
Filed: August 31, 2001	:	TO ISSUE
Attorney Docket No. P2548P1C16	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)", filed October 31, 2005 (Certificate of Mailing dated October 29, 2005). Patenteed request that the patent term adjustment indicated on the patent be corrected from one hundred thirty-two (132) days to one hundred forty-seven (147) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred forty-seven (147)** days.

On August 30, 2005, the above-identified application matured into U.S. Patent No. 6,936,254. The instant request for reconsideration filed October 31, 2005 (Certificate of Mailing dated October 29, 2005) was timely filed within two months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of one hundred thirty-two (132) days. Patentee states that the determination of patent term adjustment days should not have been assessed applicant delay of nineteen

(19) days for the submission of a Rule 312 amendment on June 23, 2005. Patentees state that they did not file a Rule 312 amendment on that date, but rather on June 28, 2004, and in fact were already properly assessed one hundred twenty (120) days of applicant delay for its filing. In addition, applicants point out that they should have been assessed delay of four (4) days for the filing of an RCE on February 23, 2004.

The adjustment of nineteen (19) days for the filing of a Rule 312 amendment has been found to be incorrect. No submission was filed on that date. Accordingly, there should have been no applicant delay assessed on June 23, 2005.

In addition, applicants should have been assessed delay of four (4) days for the filing of an RCE on February 23, 2004. The Office mailed a final action on November 19, 2003. Applicants did not file the RCE until February 23, 2004, made timely for purposes of avoiding abandonment by including a Certificate of Mailing dated February 19, 2004. However, a Certificate of Mailing is not taken into account in the PTA calculation. See 37 C.F.R. § 1.703(f).

In view thereof, the correct determination of PTA at the time of issuance is one hundred forty-seven (147) days (388 (82+306) days of PTO delay, reduced by 241 (30+82+4+120+5) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred forty-seven (147)** days, subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

/Karin A Ferriter/ for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: draft certificate of correction

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Hall, Priddy, Myers & Vande Sande
200-10220 River Road
Potomac, MD 20854

Paper No. 10

In re Application of
Frank Deiter
Application No. 09/945,616
Filed: September 5, 2001
For: CONVERTED WOOD ARTICLE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on a communication filed by applicant on September 2, 2003 which has been treated as a petition to withdrawal the holding of abandonment.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated April 14, 2003 which identifies the application by serial number and the type of Response 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 amendment filed with the petition, then to the examiner for prompt action on the response.

cps/1/8/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of :
Takasi OBATA et al. :
Application No. 09/945,641 : ON PETITION
Filed: September 05, 2001 :
Attorney Docket No. 4041K-000073/US/COA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 07, 2008, 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 21, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A TWO (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $ 540; (2) the petition fee of $ 1620; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $ 650 third month extension of time fee submitted with the reply on November 07, 2008 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 the Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 1791 for processing of the Notice of Appeal and for appropriate action by the Examiner in the normal course of business thereon.

for David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Keith Krasnansky :
Application No. 09/945,684 : ON PETITION
Filed: September 5, 2001 :
Attorney Docket No. TI-32752 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed December 28, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of an amendment to the specification, one (1) sheet of a replacement drawing containing Figure 2, and $1,020 for a three (3) month extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 2638.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6571826	2003-06-03	09945741	2001-09-05	

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	/Chao-Chang David Pai/	Date (YYYY-MM-DD)	2008-03-03
Name	Chao-Chang David Pai	Registration Number	51195

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. 6571826
Issue Date: June 3,2003
Application No. 09945741
Filed: September 5,2001
Attorney Docket No. BHT-3125-84

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed March 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 5,2008 . 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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JONES DAY
51 LOUISIANA AVENUE, N.W.
WASHINGTON, DC 20001-2113

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OFFICE OF PETITIONS

In re Application of :
Philippe Reb, et al. :
Application No. 09/945,793 : ON PETITION
Filed: September 5, 2001 :
Attorney Docket No. 9676-308 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 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 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 application became abandoned on July 30, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $510 extension of time submitted on January 7, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/030,182.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,636,457	2003-10-21	09945843	2001-09-05	3092-242

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
○	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
◉	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2008-07-07
Name	Bruce H. Troxell	Registration Number	26592

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6636457
Issue Date: October 21,2003
Application No. 09945843
Filed: September 5,2001
Attorney Docket No. BHT-3092-242

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 7,2008 ,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 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JUN 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Bennett et al. :
Application No. 09/945,861 : DECISION ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. CL1236USCNT2 :

This is a decision on the petition filed on April 19, 2004 (certificate of mailing April 16, 2004), pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT.**

The above-identified application is not abandoned. A final Office action was mailed on July 22, 2003. This Office action set a shortened statutory period for reply of three (3) months. Applicants timely filed an amendment on October 27, 2003 (certificate of mailing October 22, 2003); however, it was determined by the examiner not to place the application in condition for allowance (See Advisory Action mailed November 3, 2003). To avoid abandonment of the application on November 20, 2003, applicants filed a Notice of Appeal (and appeal fee). This additional response was made timely by a petition and fee for extension of time for response within the first month.

Pursuant to 37 CFR § 1.192(a), an appellant must, within two months from the date of the notice of appeal under § 1.191 or within the time allowed for reply to the action from which the appeal was taken, if such time is later, file a brief in triplicate. However, this period is extendable under § 1.136(a) for up to FIVE MONTHS beyond the TWO MONTH period provided in § 1.192(a). As of the filing of the instant petition, the extended period to file the brief under 37 CFR 1.136(a) had not expired (i.e., it was extendable to June 20, 2004).

As stated in MPEP 710.02(e),

> While a petition for an extension of time under 37 CFR 1.136(a) must be filed within the extended period for reply, the petition need not be filed within the original shortened statutory period for reply.

Moreover, 37 CFR 1.136(a) (3) provides that:

> (C) submission of the fee set forth in 37 CFR 1.17(a) will be treated as a constructive petition for an extension of

time in any concurrent reply requiring a petition for an extension of time under 37 CFR 1.136(a) to be timely.

Moreover, in lieu of filing an appeal brief, an applicant may file a request for continued examination. The filing of a request for continued examination including a submission and fee after the filing of a Notice of Appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal, will be considered a request to withdraw the appeal and to reopen prosecution of the application before the examiner. See 37 CFR § 1.114(d).

The instant petition includes an authorization to charge any required fees to Deposit Account No. 04-1928, as well as, a reply in the form of a Request for Continued Examination (RCE), a submission and the RCE fee. Pursuant to this authorization, the fee for extension of time for response within the third month, the fee necessary to make this reply timely ($950) is being charged to Deposit Account No. 04-1928.

In light of this timely reply, the application is not abandoned. Consideration of the petition under § 1.137(b) is unnecessary. Accordingly, the petition fee has been refunded to Deposit Account No. 04-1928, as authorized.

The examiner in Technology Center 1755 has been advised of this decision. The RCE and submission will be considered in due course.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

Mark A. Litman & Associates, P.A.
York Business Center, Suite 205
3209 West 76th St.
Edina, MN 55435

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of: :
Hendrickson et al. :
Application No.: 09/945,889 : Corrected
Filed: September 4, 2001 : Decision on Petition
Attorney Docket No. 496.025US1 :

This is a decision on the Petition to Revive an Unavoidably Abandoned Application Under 37 CFR 1.137(a), or an Unintentional Abandondment Under 37 CFR 1.137(b), and Alternatively a Petition to Waive the Rules Under 37 CFR 1.[1]83.

Applicant argues non-receipt of the references cited in the Office action mailed January 17, 2003. Under 37 CFR 1.181, Petition to the Commissioner, a petition may be filed to address any action or requirement of an Examiner in the *ex parte* prosecution of an application. The Manual for Patent Examining Procedure ("MPEP"), section 1002.02(c), Petitions and Requests Decided by the Technology Center Directors, provides that Petitions invoking the supervisory authority of the Commissioner under 37 CFR 1.181, involving any *ex parte* action or requirement in a patent application, are decided by the Technology Center Directors.

Accordingly, the petition is **dismissed as immaterial.**

The Technology Center is hereby authorized to treat the petitions filed under 37 CFR 1.137(a); 1.137(b) or 1.183 as a petition under 37 CFR 1.181. *Accord* MPEP 1002.02(c)(3).

The application file is being forwarded to Technology Center 3600 for consideration of the petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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APR 26 2004

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APR 26 2004

OFFICE OF THE DIRECTOR
TC 3600

Mark A. Litman & Associates, P.A.
York Business Center
Suite 205
3209 West 76th St.
Edina MN 55435

In re application of :
William A. Hendrickson et al. :
Application No. 09/945,889 :
Filed: September 4, 2001 :
For: PROCESS FOR SIZING PARTICLES AND PRODUCING PARTICLES SEPARATED INTO SIZE DISTRIBUTIONS :

DECISION ON PETITION TO RESET A PERIOD FOR REPLY (DEFECTIVE OFFICE ACTION)

The communication filed January 24, 2003 is being treated as a Petition to Reset a Period for Reply due to a defect in the Office Action mailed January 17, 2003. There is no fee required for this petition.

The petition is **GRANTED**.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply to run from the date the error is corrected, when an Office action contains some defect and the error is called to the attention of the Office within one month of the mail date of the action. If the error is brought to the attention of the Office greater than one month after the mail date of the Office action, but before the expiration of the reply period, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. Any such reset period being at least one month. If any such error is not brought to the attention of the Office prior to the expiration of the response period, the period will not be restarted and any response would require the appropriate extension fee to be considered timely.

A review of the file record reveals that a non-final Office action was mailed to the address of record on January 17, 2003. Applicant states that a communication was transmitted by facsimile to the Office on January 24, 2003 indicating that the received Office action did not include 5 prior art references cited in the Office action. Applicant has submitted a copy of this communication which has a Certificate of Transmission date of January 24, 2003, and has additionally provided a statement under 37 CFR 1.8(b)(3), which together comprise acceptable evidence of the timely filing of the above communication. Applicant requests that the references be provided and that the period for response be reset accordingly.

A further review of the file record reveals that no references were provided because the examiner failed to check box 1 on the Office Action Summary Form. The file contains two copies of form PTO-892, Notice of References Cited and copies of the references cited thereon. Since the Office action mailed January 17, 2003 was incomplete and applicant brought this deficiency to the attention of the Office within one month, the petition is granted.

SUMMARY: The Petition to Reset Time Period is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment and redate and remail a complete version of the Office action originally mailed January 17, 2003, including copies of all the references cited on the PTO-892 along with a copy of the PTO-892.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/mjz: 4/6/04

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

UR
PAPER NO. 4

In re Application of	:	
Francisco J. Guerra et al.	:	DECISION
Serial No. 09/945,908	:	ON
Filed: September 04, 2001	:	PETITION
For: APPARATUS AND METHOD FOR	:	UNDER 708.02,VIII
TESTING A BEVERAGE FOR A	:	Small Entity
CLANDESTINE ILLICIT SUBSTANCE	:	

This is in response to the petition filed April 17, 2002, requesting that the above-identified application be granted Special Status, but did not specify a Section (I through XII) of M.P.E.P. 708.02 for authority.

The petition for accelerated examination has been considered under Sections 708.02 (VIII) of the MPEP and 37 CFR 1.102(c) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows that Class 422, Subclasses 56, 57, 58, and 61; and Class 436, Subclasses 20, 24, and 170, should have been searched.

Accordingly, the petition is **DENIED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

David W. Barman
1101 NE 176 Terrace
North Miami Beach, FL 33162

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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Paper No. 5

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

MAIL
NOV 22 2002
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:

09/945,914

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Steve Volk
Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 8

STEVE VOLK
CHAIRMAN OF THE BOARD
DATAPLAY, INC.
2560 55TH STREET
BOULDER, CO 80301-5706

MAILED

FEB 0 3 2003

Technology Center 2600

In re Application Serial No.:

09/945,914

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request filed 12/24/02 to Withdraw as Attorney is **DISMISSED AS MOOT**.

The petitioner, James E. Parsons, is no longer of record as attorney and agent. Therefore, he cannot request a change of address.

There appears to be two addresses for the applicant. If the address of record (above) is improper, applicant must submit a formal Change of Correspondence Address.

Further communications will continue to be directed to the address of record listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

cc: Alan MacPherson
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 14

MR. STEVE VOLK
CHAIRMAN OF THE BOARD
DATAPLAY, INC.
2560 55TH STREET
BOULDER CO 80301-5706

MAIL

MAY 19 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Freeman et al.
Application No. 09/945,914
Filed: September 4, 2001
For: FOCUS STOP FOR LIMITING ACTUATOR ASSEMBLY FOCUS TRAVEL

DECISION
ON PETITION

This is a response to the request for withdrawal of the Notice of Abandonment, filed March 5, 2004 which is treated as a petition to Withdraw the Holding of Abandonment, no fee is required pursuant to 37 C.F.R. § 1.181.

This application became abandoned due to failure to respond in a timely manner to the August 26, 2003 Office Action. There was no notice of abandonment mailed; however, in absence of a response to the office action, this application became abandoned as of November 26, 2003.

Petitioner has alleged non-receipt of the Office Action mailed August 26, 2003. In the petition, the petitioner has provided a statement that the office communication was not received by the petitioner. In addition, attached to and referenced in the petition is a copy of the docket record where the non-received office communication would have been entered had it been received and docketed.

Based on M.P.E.P. § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(1) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and,

(3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The petition lacks a statement from the petitioner attesting to the fact that a personal search of the file jacket and docket records indicates that the office communication was not received. The present petition does not comply with requirement (2) as set forth above.

Accordingly, the petition is **DENIED**.

The application is being returned to the abandoned files repository.

Any request for reconsideration must be submitted within TWO (2) Months from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted. The reconsideration request should be a cover letter entitled "Renewed petition to Withdraw the Holding of Abandonment."

Alternatively, petitioner may file a petition to revive under 37 C.F.R. 1.137(b) directed to the Office of Petitions.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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Paper No. 18

MAIL

OCT 18 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

In re Application of:
Freeman et al.
Application No. 09/945,914
Filed: September 4, 2001
For: FOCUS STOP FOR LIMITING ACTUATOR ASSEMBLY FOCUS TRAVEL

DECISION ON PETITION

This is a response to the request for reconsideration of the decision on petition to withdraw the Notice of Abandonment, filed August 17, 2004 and supplemented on September 2, 2004. The original petition is treated as a petition to Withdraw the Holding of Abandonment pursuant to 37 C.F.R. § 1.181. No fee is required.

This application became abandoned due to failure to respond in a timely manner to the August 26, 2003 Office Action. Although no notice of abandonment was mailed prior to the original petition decision (paper No. 14, mailed May 19, 2004), in absence of a response to the Office action, this application became abandoned as of November 26, 2003.

Petitioner alleged non-receipt of the Office Action mailed August 26, 2003. In the petition, the petitioner provided a statement that the office communication was not received by the petitioner. In addition, attached to and referenced in the petition is a copy of the docket record where the non-received office communication would have been entered had it been received and docketed.

The original petition was denied for the reason that the petition lacked a statement from the petitioner attesting to the fact that a personal search of the file jacket and docket records indicates that the office communication was not received. The present petition does not comply with requirement (2) of MPEP §711.03(c).

Petitioner stated in their original request for reconsideration that the Office action (paper No. 9) and petition decision (paper No. 14) were mailed to the wrong address.

A search of the application reveals that a petition to withdraw all attorneys of record was filed October 31, 2002. This request was granted on November 22, 2002 (paper No. 5). Subsequently on December 24, 2002 another petition to withdraw as attorney and change correspondence address was filed (paper No. 7). On February 3, 2003 this petition was dismissed as moot given that the requesting attorney had been withdrawn from the record and therefore could not request change of address. There was a further request for change of correspondence address of record in the application (paper No. 13) filed March 1, 2004, however there was no attorney of record corresponding to the application and thus the change in correspondence was not entered. Thus, the Office action of August 26, 2003 and petition decision of May 19, 2004 were mailed to the address of record.

Petitioner in their supplement to the request for reconsideration, filed September 2, 2004 provided a copy of power of attorney and change of correspondence address, executed by the assignee of entire interest, as well as evidence whereby the power of attorney was submitted via

facsimile to an Office facsimile number on August 6, 2003. In addition, petitioner also provided certification by assignee under 37 CFR §3.73(b) and evidence of assignment.

MPEP §402.07 Assignee Can Revoke Power of Attorney of Applicant, states in part:

> The assignee of record of the entire interest can revoke the power of attorney of the applicant unless an "irrevocable" right to prosecute the application had been given as in some government owned applications.
>
> 37 CFR 3.71. Prosecution by assignee.
> (a) Patents — conducting of prosecution. One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding to the exclusion of either the inventive entity, or the assignee(s) previously entitled to conduct prosecution.
> (b) Patents — assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:
>
> (1) A single assignee . An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
>
> (2) Partial assignee(s) together or with inventor(s) . All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.
>
> (c) Patents — Becoming of record. An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee...
>
> A power of attorney by the assignee of the entire interest revokes all powers given by the applicant and prior assignees if the assignee establishes their right to take action as provided in 37 CFR 3.73(b). See MPEP § 324. Ordinarily, the applicant will still have access to the application (MPEP § 106).

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:

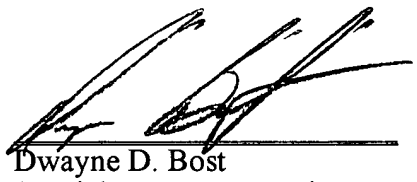
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) 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. [emphasis added]

Petitioner has successfully evidenced the prior filing of an appointment of power of attorney and change of address prior to the mailing of the non-final Office action of August 26, 2003.

Therefore, the non-final Office action of August 26, 2003 and petition decision of May 19, 2004 were mailed to an improper address.

Accordingly, the original petition as supplemented on August 17 and September 2, 2004 is **Granted**.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Given the delay between the mailing of the non-final Office action and this decision, the non-final Office action is hereby vacated. The application file will be forwarded to the examiner for update and preparation of a new Office action.



Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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The Holyoke-Manhattan Building
80 South Highland Avenue
Ossining, NY 10562

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Bertranou et al.	:	DECISION DISMISSING
Application No. 09/945,915	:	PETITION
Filed: September 4, 2001	:	
Attorney Docket No. 2868.P006	:	

This is a decision on the petition under 37 CFR 1.182, filed on December 1, 2004, requesting a showing under 37 CFR 1.41(d).

In the present petition, inventor Jean Yves Leroy asserts that he is the sole inventor of the above-identified application. Mr. Leroy further asserts that he never signed a Declaration for this application, and that the signature presented as his is a forgery.

37 CFR 1.182 states:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h).

The regulations do provide a remedy for the inventor. If Mr. Leroy feels that he is the sole inventor of the invention claimed in above-identified application naming him as a joint inventor, he may file his own application and request that his application be placed in interference with the above-identified application. If the claims in both Mr. Leroy's application and the above-identified application are otherwise found allowable, an interference may be declared. See MPEP 2300.

Accordingly, the petition is **DISMISSED.**

The Office does not engage in dual correspondence. Therefore, all future communications will be mailed to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

cc: BLAKELY SOKOLOFF TAYLOR & ZAFMAN
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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 6

THEODORE M. MAGEE
WESTMAN CHAMPLIN & KELLY
SUITE 1600 - INTERNATIONAL CENTRE
900 SOUTH SECOND AVENUE
MINNEAPOLIS, MN 55402-3319

COPY MAILED

JUL 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Jianfeng Gao et al :
Application No. 09/945,930 : DECISION ON PETITION
Filed: September 4, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. M61.12-0687 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 26, 2002, to accept an unintentionally delayed claim under 35 USC 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) 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) 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 USC 119(e) and 37 CFR 1.78(a)(5). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on September 4, 2001 within twelve months of the filing date of the prior provisional application, Application No. 60/240,390, which was filed on October 13, 2000, 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.

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). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 USC 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 USC 119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/240,390 is granted as of the date of filing the petition.

A corrected filing receipt which includes the priority claim to provisional Application No. 60/240,390, filed October 13, 2000, and the revised projected publication date of October 10, 2002 for the instant application accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center AU 2654 for processing the amendment filed June 26, 2002 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior provisional application, Application No. 60/240,390, filed on October 13, 2000.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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DEC 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Stephen Brock	:	DECISION ON APPLICATION
Application No. 09/945,933	:	FOR
Filed: September 4, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. BBEAR/02	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed September 20, 2006. Applicant requests that the initial determination of patent term adjustment be corrected from six hundred two (602) days to six hundred eight (608) 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 six hundred eight (608) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 7, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 602 days. On September 20, 2006, applicants timely[1] submitted this application for patent term adjustment. Applicant seeks correction of the PTA on the basis of his timely mailing of a Response to Notification to File Missing Parts on November 2, 2001 during the postal emergency

[1] PALM records indicate that the issue fee payment was received on October 6, 2006.

between October 13, 2001 and December 1, 2001, causing the receipt by the Office to be January 15, 2002, more than three business days after the date indicated on the certificate of mailing, showing that in spite of all due care, applicant was unable to reply to the Notice within the two month period for response. Applicant requests re-crediting of the period of reduction of 6 days.

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 signed and dated November 2, 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 October 9, 2001 was mailed on November 2, 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 15, 2002.

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 8, 2001, the day that is four business days after November 2, 2001, and ends on January 15, 2002, the date of receipt of the reply. This period of reinstatement is 68 days.

In view thereof, the entire period of reduction associated with delay in responding to the Notice to File Missing Parts of Application of 6 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 six hundred eight (608) days.

It is further noted that applicant has 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

Day : Thursday
Date: 12/21/2006

PALM INTRANET

Time: 14:51:14

PTA Calculations for Application: 09/945933			
Application Filing Date:	09/04/2001	PTO Delay (PTO):	704
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	102
Post-Issue Petitions:	0	Total PTA (days):	608
PTO Delay Adjustment:	6		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	12/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	6		
55	09/07/2006	MAIL NOTICE OF ALLOWANCE	34		48
54	09/06/2006	ISSUE REVISION COMPLETED			
53	09/06/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	09/05/2006	NOTICE OF ALLOWABILITY			
51	04/04/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	02/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	06/24/2006	DATE FORWARDED TO EXAMINER			
48	04/04/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
47	06/24/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
46	04/04/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
45	05/25/2006	FINISHED INITIAL DATA CAPTURE			
44	03/03/2006	EXPORT TO INITIAL DATA CAPTURE			
43	02/17/2006	REFERENCE CAPTURE ON IDS			
42	02/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		87	35
41	02/27/2006	MAIL NOTICE OF ALLOWANCE			
40	02/22/2006	ISSUE REVISION COMPLETED			
39	02/22/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	02/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
37	02/21/2006	NOTICE OF ALLOWABILITY			

36	12/08/2005	DATE FORWARDED TO EXAMINER			
35	11/22/2005	RESPONSE AFTER NON-FINAL ACTION			
34	10/20/2005	MAIL NON-FINAL REJECTION			
33	10/17/2005	NON-FINAL REJECTION			
32	07/20/2005	DATE FORWARDED TO EXAMINER			
31	07/13/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
30	07/20/2005	DATE FORWARDED TO EXAMINER			
29	07/13/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		7	22
28	07/20/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
27	07/13/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
26	07/13/2005	CORRESPONDENCE ADDRESS CHANGE			
25	07/13/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
24	07/11/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
23	06/30/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
22	04/06/2005	MAIL FINAL REJECTION (PTOL - 326)	19		19
21	04/04/2005	FINAL REJECTION			
20	01/21/2005	DATE FORWARDED TO EXAMINER			
19	11/18/2004	RESPONSE AFTER NON-FINAL ACTION		2	16
18	12/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	11/18/2004	WORKFLOW INCOMING AMENDMENT IFW			
16	08/16/2004	MAIL NON-FINAL REJECTION	651		-1
15	08/09/2004	NON-FINAL REJECTION			
14	04/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/23/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	01/02/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	02/15/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/16/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	03/18/2002	APPLICATION DISPATCHED FROM OIPE			
8	03/05/2002	APPLICATION IS NOW COMPLETE			
7	01/15/2002	ADDITIONAL APPLICATION FILING FEES		6	4
		A STATEMENT BY ONE OR MORE INVENTORS			

6	01/15/2002	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	01/15/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
4	10/09/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	10/05/2001	CORRESPONDENCE ADDRESS CHANGE			
2	09/12/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/04/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 16

STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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FEB 0 9 2004

OFFICE OF PETITIONS

In re Application of
Harris et al.
Application No. 09/945,943
Filed: September 4, 2001
Attorney Docket No. 6836.US.O1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 9, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 6, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 7, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1600 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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Paper No. 8

MAIL

NOV 22 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

In re Application Serial No.:

09/945,944

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Steve Volk
Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

256-256.4

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Paper No. 10

STEVE VOLK
CHAIRMAN OF THE BOARD
DATAPLAY, INC.
2560 55TH STREET
BOULDER, CO 80301-5706

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JAN 3 0 2003

Technology Center 2600

In re Application Serial No.:

09/945,944

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request filed 12/24/02 to Withdraw as Attorney is **DISMISSED AS MOOT**.

The petitioner, James E. Parsons, is no longer of record as attorney and agent. Therefore, he cannot request a change of address.

There appears to be two addresses for the applicant. If the address of record (above) is improper, applicant must submit a formal Change of Correspondence Address.

Further communications will continue to be directed to the address of record listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

cc: Alan MacPherson
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

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Paper No. 17

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MAY 11 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

David W. Heid
MacPherson Kwok Chen & Heid LLP
1762 Technology Drive
Suite 226
San Jose CA 95110

In re Application of
Robert FREEMAN, et al.
Application No. 09/945,944
Filed: September 4, 2001
For: MECHANISM FOR LIMITING ACTUATOR ASSEMBLY MOVEMENT IN A DATA STORAGE/RETRIEVAL SYSTEM

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment, filed March 5, 2004, requesting the holding of abandonment be withdrawn in the above-identified application.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed August 22, 2003. A Notice of Abandonment has not been mailed.

A review of the record indicates that a Revocation and Power of Attorney was filed prior to the non-final Office action of August 22, 2003 but not matched with the file. A copy of the Power of Attorney was filed on May 13, 2003. The Power of Attorney changed the correspondence address prior to the mailing of the Office action on August 22, 2003. The Office action was mistakenly mailed to a previous correspondence address resulting in an irregularity in mailing.

In view of the above stated reasons the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for re-mailing the non-final Office action originally mailed August 22, 2003. The period for response will be re-started to begin on the mailing thereof.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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Paper No. None

JAMES D. WELCH
10328 PINEHURST AVE.
OMAHA NE 68124

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MAR 1 5 2006

OFFICE OF PETITIONS

In re Application of :
Blaine D. Johs et al. :
Application No. 09/945,962 : DECSION ON PETITION
Filed: September 4, 2001 :
Title: DISCRETE POLARIZATION STATE :
ROTATABLE COMPENSATOR :
SPECTROSCOPIC ELLIPSOMETER :
SYSTEM, AND METHOD OF :
CALIBRATION :

This is a decision on the petition filed February 1, 2006, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed February 6, 2004, 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 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 7, 2004. A notice of abandonment was mailed September 10, 2004.

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:

(1) the required reply (in a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof);
(2) the petition fee;
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and;
(4) a terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has submitted the petition fee, a statement of facts, and the response to the final Office action. Petitioner has asserted that the response was submitted to the Office on February 10, 2004.

The petition under 37 C.F.R. 1.137(a) is **GRANTED**.

After this decision is mailed, Technology Center 2800 will be advised to consider the above-described after-final amendment.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Lipsitz & McAllister, LLC
755 Main Street
Monroe, CT 06468

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OFFICE OF PETITIONS

In re Application of :
Raymond Bontempi :
Application No. 09/945,975 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. GIC-648 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue and publication fees.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue and publication fees; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34, the signature of Robert Marley appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. If Mr. Marley desires to receive future correspondence regarding this application, a revocation of power of attorney and an appropriate power of attorney or authorization of agent must be submitted. If an assignee is revoking the powers of the previous attorney and appointing a new representative, the revocation and power of attorney must be accompanied by a Statement under 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: Robert P. Marley
Motorola, Inc.
101 Tournament Drive
Horsham, PA 19044

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Paper No. 9

DALY, CROWLEY & MOFFORD, LLP
SUITE 101
275 TURNPIKE STREET
CANTON, MA 02021-2310

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MAY 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Ananthan K. Pillai et al :
Application No. 09/946,007 : DECISION GRANTING PETITION
Filed: September 4, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. EMC-008PUS :

This is a decision on the petition, filed May 12, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on May 29, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 28, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 2143 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Paper No. 6

HEWLETT PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80528-9599

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JUN 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Such et al. :
Application No. 09/946,024 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. xHPZ-57 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 15, 2004, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the Notice to File Missing Parts of Application (Notice) mailed October 9, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. A reply was due on or before December 10, 2001. A Notice of Abandonment was mailed on November 19, 2003.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on January 8, 2002 of 1. Executed Declaration and Power of Attorney; 2. Missing Parts Notice; and 3. Transmittal form. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of December 10, 2001.

The reply acknowledged as having been received in the USPTO on January 8, 2001 (certificate of mailing date of December 10, 2001) is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

The Office sincerely apologizes for the inconvenience caused the petitioner in this matter.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision 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

CC: PETER I. LIPPMAN
4385 OCEAN VIEW BLVD.
MONTROSE, CA 91020

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OFFICE OF PETITIONS

In re Patent No. 7,457,762 :
Wetzer, et al. : DECISION ON REQUEST FOR
Issue Date: November 25, 2008 : RECONSIDERATION OF
Application No. 09/946,032 : PATENT TERM ADJUSTMENT
Filed: September 4, 2001 :
Attorney Docket No. 10022-98 :

This is a decision on the "**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTEMENT PURSUANT TO 37 C.F.R. §1.705(d)**," filed January 26, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one thousand seventy (1,070) days to one thousand seven hundred forty (1,740) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On November 25, 2008, the above-identified application matured into U.S. Patent No. 7,457,762 with a patent term adjustment of 1,070 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to *Wyeth*, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that 377 days of the 1,138 day period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), overlap with a portion of the period of adjustment due to examination delay, pursuant to 37 CFR

§1.702(a), of 1047 days. Patentees argue that 761 days of the 1,138 day Three Year Delay period do not overlap, as these periods do not occur on the same day. Therefore, patentees argue that the patent term adjustment should have been 1,740 days.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 1,138 days. Patentees calculate this 1,138 day period based on the application having been filed under 35 U.S.C. §111(a) on September 4, 2001, and a request for continued examination (RCE) having being filed on October 17, 2007. The filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1) Accordingly, the period of adjustment under § 1.702(b) is 1,138 days, counting the number of days beginning on September 5, 2004 and ending on October 17, 2007.

Patentees assert that in addition to the Three Year Delay period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a) of 1,047 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the actual filing date of the application, pursuant to § 1.702(a)(1).

Under 37 CFR § 1.703(f), applicants are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicants delay.

Patentees do not dispute the original calculations of the period of reduction of 68 days for applicant delay[1].

Applicants assert that the total period of Office delay is the sum of the period of Three Years Delay (1,138 days) and the period of Examination Delay (1,047 days) to the extent that these periods of delay are not overlapping.

---

[1] The periods of reduction include pursuant to 37 CFR 1.704(b), 6 days for a response filed December 22, 2005, 3 days for a response filed April 19, 2007, and pursuant to 37 CFR 1.704(c)(8), 2 days for a supplemental reply filed March 23, 2006, 30 days for a supplemental reply filed November 16, 2007, and 27 days for a supplemental reply filed May 6, 2008.

Patentees contends that 377 days of the period of delay for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (November 5, 2002 to September 16, 2005) overlaps with the Three Year Delay period (September 5, 2004 to October 17, 2007). Patentees assert that this overlapping period is the 377 days running from September 5, 2004 to September 16, 2005.

Accordingly, patentees submit that the total period of Office Delay is 1,808 days, which is the sum of the period of Three Year Delay (1,138 days) and the period of Examination Delay (1,047 days), reduced by the period of overlap (377 days).

As such, applicants assert entitlement to a patent term adjustment of 1,740 days (1,047 + 1,138 reduced by 377 overlap - 68 (applicant delay).

The Office agrees that as of the filing of the RCE on October 17, 2007, the application was pending 3 years and 1,138 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 1,047 days is correct. At issue is whether patentees should accrue 761 days (adjusted for overlap, per patentees' definition of overlap) of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 1,047 days for Office failure to take a certain action within specified time frame (or examination delay).

The Office contends that 1,047 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back

to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

---

[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period from the application's filing date, September 4, 2001, to the date of filing of the RCE on October 17, 2007. 1,047 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. The period of delay of 1,138 days attributable to the delay in the issuance of the patent overlaps with the adjustments of 1,047 days attributable to the ground specified in § 1.702(a)(1). During that time, the issuance of the patent was delayed by 1,138 days. The Office took 14 months and 1,047 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1,047 days of Office delay and the 68 days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing date of the RCE, the application was pending three years and 1,138 days. In other words, the 1,047 days of delay contributed to the over three year pendency. The issuance of the patent was delayed by 1,138 days, not 1,047 + 761 days. Entry of both periods is not warranted.

Accordingly, at issuance, the Office properly entered 91 days of patent term adjustment, since the period of delay of 1,138 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 1,047 days attributable to ground specified in § 1.702(a)(1). 1,138 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 1,138 days over three years and the 1,047 days of examination delay.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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Philadelphia, PA 19103

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Technology Center 2100

In re Application of: Lomet, et al.	
Application No. 09/946,050	**DECISION ON PETITION TO**
Attorney Docket No. MSFT-0315/160329.1	**WITHDRAW HOLDING OF**
Filed: 04 September 2001	**ABANDONMENT UNDER 37 CFR**
For: RECOVERY GUARANTEES FOR GENERAL MULTI-TIER APPLICATIONS	**§1.181**

This is a decision on the petition, filed 04 May 2005 requesting the Withdrawal of the Abandoned status of the above-identified application, under 37 CFR §1.181. The instant application was deemed abandoned for failure to respond to the Office Action (Notice of Allowance) mailed 06 October 2004.

The petition is **GRANTED.**

According to the MPEP §711.03(c), the showing required to establish non-receipt of an Office action includes the following:

1) a statement from practitioner that the Office action was not received,

2) a statement from practitioner that the file jacket and docket records were searched,

3) a copy of the docket record at the address of record, and

4) a reference to the docket record in the practitioner's statement.

In support of the petition, applicants' representative provides a statement that the Office action was not received and that a search of the file jacket and document records has been performed. Petitioner also provides a copy of the docket record "where the non-received action would have been entered". Additionally, the petition furnishes a copy of the mail log at the address where the action would have been received, and the referenced address reflects the Patent Office's address of record for the instant Application.

Petitioner has established non-receipt of the Office action as set forth in the requirements supra. Accordingly, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **RE-SEND the Notice of Allowability and Fee(s) due (PTOL-85)** that was originally mailed 06 October 2004 and **RE-DATE the Notice and PTOL-85** so that Applicant's time for response commences upon this re-mailing. Likewise, the case status shall be reset to reflect the active/pending condition for Applicant's response.

Any questions regarding this decision may be directed to the undersigned at 571-272-3599.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

GO

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/946,068	09/22/2004	Masao Seto	117245	8076

25944 7590 11/21/2006

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER	
SALMON, KATHERINE D	
ART UNIT	**PAPER NUMBER**
1634	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

IFW

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Melanie L. McCollum
Oliff & Berridge, PLC
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of

Masao Seto et al.
Application No. 10/946,068
Filed: September 22, 2004
Attorney Docket No. 117245

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 July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie L. McCollum: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Melanie L. McCollum has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address of record remains unchanged.

The attorneys/agents associated with the firm Oliff & Berridge remain of record.

There is no outstanding Office action at this time.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

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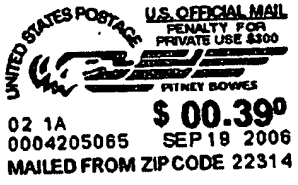

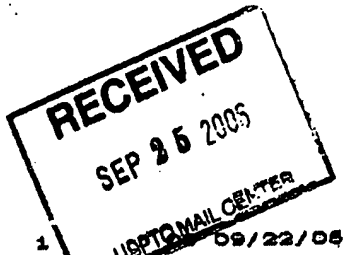

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OFFICE OF PETITIONS

In re Application of

Cranfill, et al. :

Application No. 09/946,109

: DECISION ON PETITION

Filed: September 4, 2001

:

Attorney Docket No. CS10918

This is a decision on the petition under 37 CFR 1.137(b), filed, December 1, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 17, 2006, 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 May 18, 2006. A Notice of Abandonment was mailed September 19, 2006.

The amendment filed December 1, 2006, is noted.

The application is being forwarded to Technology Center 2600, GAU 2615 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

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Paper No. 7

THOMAS A. O'ROURKE
BODNER & O'ROURKE, LLP
425 BROADHOLLOW ROAD
MELLVILLE, NY 11747

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APR 0 7 2004

OFFICE OF PETITIONS

In re Application of :
William Van Ness :
Application No. 09/946,156 :
Filed: September 4, 2001 :
Title of Invention: PET WATERER : ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed October 10, 2001. The Notice required the basic filing fee; additional claim fees, an executed oath/declaration, and a late filing fee or oath or declaration surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on December 11, 2001.

With the instant Renewed Petition, Petitioner has filed the appropriate fees and an executed oath or declaration in response to the Notice, and satisfied the requirements of a grantable petition under 37 CFR 1.137(b).

The oath or declaration and the change of correspondence address have been entered and made of record.

The application is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Paper No. 8

BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO ILLINOIS 60610

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OFFICE OF PETITIONS

In re Application of	:	
Gary R. Garrow et al	:	
Application No. 09/946,160	:	DECISION GRANTING PETITION
Filed: September 4, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 10022/180	:	

This is a decision on the petition, filed September 3, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in a foreign country on October 16, 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 December 19, 2002 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2176 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

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OFFICE OF PETITIONS

In re Application of :
Tracy, Richard P. et al. :
Application No. 09/946,164 : DECISION ON PETITION
Filed: September 05, 2001 : TO WITHDRAW
Attorney Docket No. **102632.123US1** : 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 06, 2007.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **RANDY V. SABETT**
SONNENSCHEIN NATH & ROSENTHAL
1301 K. STREET, N.W.
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WASHINGTON, DC 20005

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Ferris H. Lander
McHale & Slavin, P.A.
4440 PGA Boulevard, Suite 402
Palm Beach Gardens, FL 33410

Paper No. 6

In re Application of:
JACKOWSKI et al
Serial No.: 09/946,171
Filing Date: September 4, 2001
Attorney's Docket No.: 2132.075

PETITION DECISION

This is in response to "PETITION TO MAKE SPECIAL UNDER s7 C.F.R. 1.102" filed March 18, 2002.

A review of the petition and application make it clear that the applicant has met the requirements of 37 CFR 1.102 and MPEP 708.02 VIII.

The applicant and the examiner are reminded to review the special handling procedures of MPEP 708.02 VIII during the prosecution taking special note the use of interviews where appropriate and prompt consideration of amendments.

There is NO provision for "withdrawal" from this special status.

The petition is GRANTED.

Cecilia Tsang

Cecilia Tsang, Special Program Examiner
Technology Center 1600
(703) 308-0254

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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EDWARD N. MACLEOD P.E.
53 PLEASANT ST
WESTFORD MA 01886

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SEP 22 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of
Edward Macleod
Application No. 09/946,207
Filed: September 6, 2001
For: Ergonomic Positioning Apparatus For Computers And Or Computer Accessories

This is a decision on the petition filed September 13, 2006 under 37 CFR 1.137(a).

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may **not** be extended pursuant to 37 CFR 1.136.

The petition is **dismissed**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due; which was mailed December 3, 2004. The Notice of Allowance and Issue Fee Due(s) set a three (3) month period for reply. Extensions of time were not available under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 4, 2005. A Notice of Abandonment was mailed on April 8, 2005.

The Office notes:

> 35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

The merits of the petition have **NOT** been reviewed.

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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVE
SUITE 200
EAST PALO, ALTO CA 94303

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JAN 24 2005

OFFICE OF PETITIONS

In re Application :
Matzinger, et al. :
Application No. 09/946,215 : PATENT TERM ADJUSTMENT
Filed: September 5, 2001 :
Dkt. No.: LIFE-038 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed July 26, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 312 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 259 day indicated on the Determination of Patent Term Adjustment mailed June 15, 2004 to 312 days.

A review of the application history reveals that an adjustment of 324 days under 37 CFR 1.702(a)(1) can be attributed to the Office. There were no further delays attributed to the Office.

The Office errantly entered March 11, 2002 as the date of response to the Notice mailed October 5, 2001 rather than the correct date of January 17, 2002. Accordingly, the reduction of 324 days is reduced 12 days for applicants' failure to engage in reasonable efforts to conclude prosecution in accordance with 37 CFR 1.704(b). The delay began January 5, 2002, the day after the date that is three months after the date the Notice was mailed, and ended January 17, 2002, the date the response to the Notice was filed.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 312 days.

The required fee of $200.00 for an application for patent term adjustment has been submitted.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE – 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
James Stoupis et al	:	
Application No. 09/946,232	:	DECISION ON PETITION
Filed: September 5, 2001	:	TO WITHDRAW
Attorney Docket No. ABDT-0441/B010170	:	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 6, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, client's Legal Department will prosecute this application, do not appear to meet any of the conditions set forth in 37 CFR 10.40.

There is an outstanding Office action mailed April 21, 2006 that requires a reply from the applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

David Bucci
Petitions Examiner
Office of Petitions

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ROSHARON, TX 77583

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MAY 26 2006

OFFICE OF PETITIONS

In re Application of :
Nolan C. Lerche, et al. :
Application No. 09/946,249 : ON PETITION
Filed: September 5, 2001 :
Attorney Docket No.: 22.1336 :

This is a decision on the petition, filed May 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 20, 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 2831 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
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Paper No. None

JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON OH 45479

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of :
Gang Luo et al. :
Application No. 09/946,261 : DECISION ON PETITION UNDER
Filed: September 5, 2001 : 37 C.F.R. §1.181(A)
Attorney Docket Number: 9921 :
(NCRC-0054-US) :
Title: PARALLEL MOVING :
AGGREGATE COMPUTATION :
:

This is a decision on the petition under 37 CFR §1.181(a), filed October 17, 2005, to withdraw the holding of abandonment.

On April 8, 2004, the Office mailed a final rejection. On June 4, 2004, Petitioner submitted an after-final amendment, and on September 17, 2004, Petitioner submitted a Notice of Appeal, along with the requisite fee. An advisory action was subsequently mailed on December 13, 2004, and, in lieu of submitting an Appeal Brief, Petitioner submitted a subsequent after-final amendment along with an authorization to charge a two-month extension of time on January 14, 2005. On February 8, 2005, the Office mailed a notice of abandonment.

It is noted that the notice of abandonment was mailed on February 8, 2005, and the present petition to withdraw the holding of abandonment was not submitted until over 8 months later on October 17, 2005. 37 C.F.R. §1.181(f) sets forth, *in pertinent part*:

> 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.

As such, this petition is DISMISSED AS UNTIMELY.

Petitioner may wish to consider submitting a petition under 37 C.F.R. §§1.137(a) or (b), and any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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 related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Dan Hu
TROP PRUNER & HU, PC
8554 KATY FREEWAY
SUITE 100
HOUSTON, TX 77024

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

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OFFICE OF PETITIONS

JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON OH 45479

In re Application of
Gang Luo et al.
Application No. 09/946,261
Filed: September 5, 2001
Attorney Docket Number: 9921
(NCRC-0054-US)
Title: PARALLEL MOVING
AGGREGATE COMPUTATION

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.181

This is a decision on the petition filed April 21, 2006 under 37 C.F.R. §1.137(b), which is properly treated as a renewed petition under 37 C.F.R. §1.181, to withdraw the holding of abandonment.

On April 8, 2004, the Office mailed a final rejection. On June 4, 2004, Petitioner submitted an after-final amendment, and on September 17, 2004, Petitioner submitted a Notice of Appeal, along with the requisite fee. An advisory action was subsequently mailed on December 13, 2004, and, in lieu of submitting an Appeal Brief, Petitioner submitted a subsequent after-final amendment along with an authorization to charge a two-month extension of time on January 14, 2005. On February 8, 2005, the Office mailed a notice of abandonment.

The original petition was submitted on October 17, 2005, and was dismissed via the mailing of a decision on February 27, 2006, as being filed untimely.

With this renewed petition, the requirement set forth in 37 C.F.R. §1.181(f) that a petition under this section of the C.F.R. be filed within two months of the mailing date of the action from which relief is requested is waived sua sponte.

The Examiner has reviewed the after-final amendment submitted on January 14, 2005, and has agreed to enter the same.

Accordingly, the petition under 37 C.F.R. §1.181(a) is GRANTED. The holding of abandonment is WITHDRAWN.

The petition fee will be refunded to Petitioner's deposit account in due course. The Technology Center will be notified of this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

John S. Pratt
Kilpatrick Stockton LLP (Bell South)
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

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JUN 2 5 2002

OFFICE OF PETITIONS

In re Application of :
David R. Jean, et al. :
Application No. 09/946,269 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 36968/252479 :

This is in response to the "Petition Under 37 CFR 1.47(a), filed April 5, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should 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) above, petitioner has not provided an acceptable oath or declaration. MPEP 605.03 states in part:

> "Effective December 1, 1997, 37 CFR 1.63 has been amended to require the post office address of each inventor to be stated in the oath or declaration. Applicant's post office address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the post office address. The post office address should include the ZIP Code designation...In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary."

The oath or declaration submitted with the instant petition does not comply with the requirements set forth in MPEP 605.03, as noted above, in that the post office address for Mr. David Jean, the non-signing inventor, is not present. Additionally, the post office addresses of Judy Marcopulos and Rita Scherer are illegible. Accordingly, a legible declaration in compliance with 37 CFR 1.63 and 1.64 and signed by joint inventors, Judy Marcopulos and Rita Scherer, on behalf of David Jean **or** an Application Data Sheet, listing the inventors' post office addresses, in compliance with 37 CFR 1.76, is REQUIRED.

In order to expedite consideration of the petition under § 1.47, petitioner may wish to consider submitting the renewed petition by facsimile transmission to the fax number listed below and to the attention of Marianne Morgan.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

or

Assistant Commissioner for Patents
P. O. Box 2327, Mail Stop DAC
Arlington, VA 22202

By FAX: (703) 308-6916
Attn: Office of Petitions

By HAND: 2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

John S. Pratt
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of :
David R. Jean, et al. :
Application No. 09/946,269 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 36968/252479 :

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)", filed August 23, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor, David R. Jean, has refused to join in the filing of the above-identified application.

The 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 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Technology Center 2600.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances M. 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
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Washington, D.C. 20231
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Mr. David R. Jean
610 Gable Drive
Birmingham, AL 35244

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of
David R. Jean ; Judy M. Marcopulos ; and Rita H. Scherer
Application No. 09/946,269
Filed: September 4, 2001
For: PROCESSES AND SYSTEMS FOR SCREENING WORK ORDERS

Dear Mr. David Jean:

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 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: John S. Pratt
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

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JJGJR.: 07-06

Paper No: __

CANTOR COLBURN LLP
- BELLSOUTH
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Jean, et al.	:	
Application No. 09/946,269	:	DECISION
Filing Date: 4 September, 2001	:	
Attorney Docket No.: 36968/252479	:	

This is a decision on the petition filed on 5 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due and Notice of Allowability mailed on 23 May, 2005, with reply due absent extension of time on or before 23 August, 2005;

- the instant application went abandoned after midnight 23 August, 2005;

- the Office mailed a Notice of Abandonment on 11 May, 2006;
- on 5 June, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of fees due, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

CANTOR COLBURN LLP - BELLSOUTH
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

COPY MAILED
AUG 3 0 2006
OFFICE OF PETITIONS

In re Application of :
David R. Jean, et al. :
Application No. 09/946,269 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No.: 36968/252479 :

This is a decision on the petition, filed August 29, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 5, 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 2614 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
www.uspto.gov

Date : August 29, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : David R. Jean, et al.
Application No. : 09/946,269
Filed : September 4, 2001

The above-identified application has been assigned Patent No. 7,103,174 and an issue date of September 5, 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 5, 2006:

"All reference to Patent No. 7,103, 174 to DAVID R. JEAN, ET AL. of CALIFORNIA for PROCESSES AND SYSTEMS FOR SCREENING WORK ORDERS appearing in the Official Gazette of September 5, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

John S. Pratt
Kilpatrick Stockton LLP (Bell South)
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

COPY MAILED

JUN 2 6 2002

OFFICE OF PETITIONS

In re Application of :
David R. Jean, et al. :
Application No. 09/946,270 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 36968/252481 :

This is in response to the petition under 37 CFR 1.47(a), filed April 9, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should 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.

An oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The oath or declaration submitted with the present petition does not comply with the requirements set forth in 37 CFR 1.63(a)(3) in that it does not list the post office address of David Jean. Petitioner should also note that the post office addresses of Judy Marcopulos and Rita Scherer are illegible.

37 CFR 1.63(a)(3) states:

> (a) An oath or declaration filed under § 1.51(b)(2) as a part of an application must:
>
> > Identify each inventor by: full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and the residence, post office address and country of citizenship of each inventor.

Further, MPEP 605.03 states in part:

> "Effective December 1, 1997, 37 CFR 1.63 has been amended to require the post office address of each inventor to be stated in the oath or declaration. Applicant's post office address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the post office address. The post office address should include the ZIP Code designation...In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary."

Additionally, the declaration submitted with the present petition does not comply with the requirements of 37 CFR 1.63(b). It appears that the first page of the executed declaration containing the affirmations required in § 1.63(b) is missing. See MPEP §§ 602.01 and 602.02.

37 CFR 1.63(b) states:

> In addition to meeting the requirements of paragraph (a), the oath or declaration must state that the person making the oath or declaration,
>
> > (1) Has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration;
> >
> > (2) Believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought; and
> >
> > (3) Acknowledges the duty to disclose the Office all information known to the person to be material to patentability as defined in § 1.56.

In view aforementioned deficiencies, a new, legible oath or declaration in compliance with 37 CFR 1.63 and 1.64, which includes the missing items noted above, signed by the other co-inventors on behalf of themselves and on behalf of non-signing inventor, David Jean, is REQUIRED. See MPEP 409.03(a).

In order to expedite consideration of the petition under § 1.47, petitioner may wish to consider submitting the renewed petition by facsimile transmission to the fax number listed below and to the attention of Marianne Morgan.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

or

Assistant Commissioner for Patents
P. O. Box 2327, Mail Stop DAC
Arlington, VA 22202

By FAX:
(703) 308-6916
Attn: Office of Petitions

By HAND:
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

John S. Pratt
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

COPY MAILED

AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of :
David R. Jean, et al. :
Application No. 09/946,270 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 36968/252481 :

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)", filed August 23, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor, David R. Jean, has refused to join in the filing of the above-identified application.

The 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 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Technology Center 2100.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

John S. Pratt
Kilpatrick Stockton LLP (Bell South)
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

COPY MAILED

JUN 2 6 2002

OFFICE OF PETITIONS

In re Application of :
David R. Jean, et al. :
Application No. 09/946,271 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 36968/248645 :

This is in response to the petition under 37 CFR 1.47(a), filed April 9, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should 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.

An oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The oath or declaration submitted with the present petition does not comply with the requirements set forth in 37 CFR 1.63(a)(3) in that it does not list the post office address of David Jean. Petitioner should also note that the post office addresses of Judy Marcopulos and Rita Scherer are illegible.

37 CFR 1.63(a)(3) states:

> (a) An oath or declaration filed under § 1.51(b)(2) as a part of an application must:
>
> > Identify each inventor by: full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and the residence, post office address and country of citizenship of each inventor.

Further, MPEP 605.03 states in part:

> "Effective December 1, 1997, 37 CFR 1.63 has been amended to require the post office address of each inventor to be stated in the oath or declaration. Applicant's post office address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the post office address. The post office address should include the ZIP Code designation...In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary."

Additionally, the declaration submitted with the present petition does not comply with the requirements of 37 CFR 1.63(b). It appears that the first page of the executed declaration containing the affirmations required in § 1.63(b) is missing. See MPEP §§ 602.01 and 602.02.

37 CFR 1.63(b) states:

> In addition to meeting the requirements of paragraph (a), the oath or declaration must state that the person making the oath or declaration,
>
> > (1) Has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration;
> >
> > (2) Believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought; and
> >
> > (3) Acknowledges the duty to disclose the Office all information known to the person to be material to patentability as defined in § 1.56.

In view aforementioned deficiencies, a new, legible oath or declaration in compliance with 37 CFR 1.63 and 1.64, which includes the missing items noted above, signed by the other co-inventors on behalf of themselves and on behalf of non-signing inventor, David Jean, is REQUIRED. See MPEP 409.03(a).

In order to expedite consideration of the petition under § 1.47, petitioner may wish to consider submitting the renewed petition by facsimile transmission to the fax number listed below and to the attention of Marianne Morgan.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

or

Assistant Commissioner for Patents
P. O. Box 2327, Mail Stop DAC
Arlington, VA 22202

By FAX:
(703) 308-6916
Attn: Office of Petitions

By HAND:
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

John S. Pratt
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

COPY MAILED

AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of	:	
David R. Jean, et al.	:	
Application No. 09/946,271	:	ON PETITION
Filed: September 4, 2001	:	
Attorney Docket No. 36968/248645	:	

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)", filed August 23, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor, David R. Jean, has refused to join in the filing of the above-identified application.

The 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 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Technology Center 2600.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances M. 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

Mr. David R. Jean
610 Gable Drive
Birmingham, AL 35244

COPY MAILED

AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of
David R. Jean ; Judy M. Marcopulos ; and Rita H. Scherer
Application No. 09/946,271
Filed: September 4, 2001
For: PROCESSES AND SYSTEMS FOR CREATING AND FOR MANAGING TROUBLE TICKETS AND WORK ORDERS

Dear Mr. David Jean:

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 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: John S. Pratt
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 20

Date : November 17, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/946,271**

Applicant(s) : David R. Jean et al
Application No. : 09/946,271
Filed : September 4, 2001

The above-identified application has been assigned Patent No. 6,826,263 and an issue date of November 30, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 30, 2004:

"All reference to Patent No. 6,826,263 to David R. Jean et al of Alabama for PROCESSES AND SYSTEMS FOR CREATING AND FOR MANAGING TROUBLE TICKETS AND WORK ORDERS appearing in the Official Gazette of November 30, 2004 should be deleted since no patent was granted."

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

#19

C. RENEE CATO
BELLSOUTH INTELLECTUAL PROPERTY MANAGEMENT CORPORATION
1155 PEACHTREE STREET, SUITE 500
ATLANTA, GA 30309

COPY MAILED

NOV 17 2004

OFFICE OF PETITIONS

In re Application of	:	
David R. Jean et al	:	
Application No. 09/946,271	:	DECISION GRANTING PETITION
Filed: September 4, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 36968/248645	:	

This is a decision on the petition, filed November 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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 25, 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]

It does not appear, absent benefit of the file record at this time, that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mr. David A. Fox 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, in fact, Mr. Fox was never appointed as an attorney of record and Mr. Fox

---

[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).*

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. Fox, 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.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Upon receipt of the file in the Office of Petitions and association of the instant petition, RCE, IDS and decision on petition with the file, the file will be forwarded to Technology Center AU 2643 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

cc:

David A. Fox
Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

#28

CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

COPY MAILED

MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
David R. Jean et al :
Application No. 09/946,271 : DECISION GRANTING PETITION
Filed: September 4, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 36968/248645 :

This is a decision on the petition, filed March 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2643 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\Mar9\946271.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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

#25

COPY MAILED

MAR 10 2006

OFFICE OF PETITIONS

Date : March 10, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/946,271**

Applicant(s) : David R. Jean et al
Application No. : 09/946,271
Filed : September 4, 2001

The above-identified application has been assigned Patent No. 7,016,476 and an issue date of March 21, 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 March 21, 2006:

"All reference to Patent No. 7,016,476 to David R. Jean et al of Alabama for PROCESSES AND SYSTEMS FOR CREATING AND FOR MANAGING TROUBLE TICKETS AND WORK ORDERS appearing in the Official Gazette of March 21, 2006 should be deleted since no patent was granted."

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Tamara K. Greene

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

COPY MAILED

FEB 28 2007

OFFICE OF PETITIONS

In re Application of	:	
David R. Jean et al	:	
Application No. 09/946,271	:	DECISION GRANTING PETITION
Filed: September 4, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 36968/248645	:	

This is a decision on the petition, filed February 20, 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 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb10\946271.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

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OFFICE OF PETITIONS

McDermott Will & Emery
28 State Street
Boston, MA 02109

In re Application of
Schoenberg et al.
Application No. 09/946,274
Filed: September 5, 2001
Attorney Docket No. 56321-030 (MDSL-110DV3)

ON PETITION

This is a decision on the Amendment under 37 CFR 1.48(b) and the petition under 37 CFR 1.137(b), filed August 26, 2002, to revive the above-identified application.

The Amendment under 37 CFR 1.48(b) is granted.

The petition under 37 CFR 1.137(b) 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 26, 2001. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 27, 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 (Commr Pats. 1988). Accordingly, since the $980 extension of time submitted with the petition on August 26, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to the Office of Initial Patent Examination 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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/946,290	09/04/2001	1652	3444	9301-164	42	83	23

CONFIRMATION NO. 7217

CORRECTED FILING RECEIPT

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

OC000000012453491

Date Mailed: 04/26/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Christopher J. Roberts, Seattle, WA;

Assignment For Published Patent Application

Rosetta Inpharmatics, Inc.;

Domestic Priority data as claimed by applicant

This application is a CON of 09/282,243 03/31/1999 ABN

Foreign Applications

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods for identifying pathway-specific reporters and target genes, and uses thereof

Preliminary Class

435

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

MARK G. LAPPIN PC
McDERMOTT WILL & EMERY
28 STATE STREET
BOSTON, MA 02109

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Ido Schoenberg et al
Application No. 09/946,304
Filed: September 5, 2001
Atty Dkt No. 56321-029 (MDSL-110DV2))

:DECISION ON PETITION
:UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 24, 2002, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely respond to the Notice to File Missing Parts of Nonprovisional Application, mailed October 15, 2001, which set a two month period within which to supply an executed oath or declaration and a surcharge fee of $65 for its late submission. No reply or extensions of time pursuant to the provisions of 37 CFR 1.136(a), this application became abandoned by operation of law on December 16, 2001.

The petition satisfies the requirements of 37 CFR 1.137(b) for reviving the instant application. Accordingly, the reply to the Notice of October 15, 2001 will be accepted as having been unintentionally delayed.

Receipt is acknowledged of a petition under 37 CFR 1.48(b) to correct inventorship, an executed declaration by inventors Ido Schoenberg, Phyllis Gotlib and Roy Schoenberg, and $65 surcharge fee.

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 $980 extension of time submitted with the petition on July 24, 2002 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Any inquiries concerning this decision on petition may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division to complete processing.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231

Paper No.

In re Application of Joe D. Allison

Application No. 09/946,305
Filed: September 5, 2001
Attorney Docket No. 1856-12800

: DECISION GRANTING PETITION
: TO REMAIL AN OFFICE
: COMMUNICATION AND RESTART
: PERIOD FOR REPLY

This is a decision on the petition filed on February 8, 2002, requesting that the Office communication mailed on October 10, 2001 be remailed and the shortened statutory period for reply set forth in the Office communication be restarted on the new mail date.

The petition is granted.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on February 4, 2002. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the reply period had elapsed on the date of receipt. Furthermore, the Office communication was mailed between October 13, 2001 and January 2, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly, the Office communication in question will be remailed and the period for reply that was originally set forth in the Office communication will be restarted to run from the new mail date of the Office communication.

Kevin Little
Office of Initial Patent Examination
(703) 308-1863

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

CUMMINS INC.
BOX 3005, M/C 60701
COLUMBUS, IN 47202-3005

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Emma Sweetland et al :
Application No. 09/946,314 : ON PETITION
Filed: September 5, 2001 :
Attorney Docket No. EEA-020 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 9, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 10, 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

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Muneo Kudo, et al. :
Application No. 09/946,330 : ON PETITION
Filed: September 6, 2001 :
Attorney Docket No. 213675US :

This is a decision on the petition, filed August 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1756 for further processing of the request for continued examination under 37 CFR 1.114 filed August 9, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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TIMOTHY J. KLIMA
HARBIN KING & KLIMA
500 NINTH STREET, SE
WASHINGTON DC 20003

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OFFICE OF PETITIONS

In re Application of :
Ferrari et al. :
Application No. 09/946,338 : ON PETITION
Filed: September 6, 2001 :
Attorney Docket No. 2545-0158 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 30, 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 July 19, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 20, 2004. A Notice of Abandonment was mailed on December 2, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to the 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 9

Philip J. Feig
NEC Research Institute Inc.
4 Independence Way
Princeton, NJ 08540

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
David J. Norris et al. :
Application No. 09/946,343 :
Filed: September 6, 2001 :
Attorney Docket No. NEC11095 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 6, 2003, and supplemented on November 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 in reply to the non-final Office action mailed December 20, 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 has been obtained. Accordingly, the application became abandoned on March 21, 2003.

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 Paul J. Esatto appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Paul J. Esatto 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 application file is being forwarded to Technology Center AU 1765.

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

cc: Paul J. Esatto, Jr.
Scully Scott Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

#9
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TECHNOLOGY CENTER 2100

Paper No. 9

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of:	)	
J. ZUMKEHR	)	
Application No. 09/946,346	)	**DECISION ON REQUEST FOR**
Filed: September 6, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR DELAYING A STROBE SIGNAL	)	

This is a decision on the Request To Withdraw from Representation filed July 2, 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 July 2, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Richard Pagaduan
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 6

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

MAIL

JUL 14 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Cayton et al. :
Application No. 09/946,347 :
Filed: September 6, 2001 :
For: DATA STREAM MULTIPLEXING IN DATA NETWORK :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on June 19, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed in the request and those associated with Customer Number 20,457 are granted the request for withdrawal. All other attorneys remain of record. Furthermore, the Patent Office does not recognize the withdrawal of a firm.

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: C/O GRACE ABERCROMBIE
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94086

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

John S. Pratt
Kilpatrick Stockton LLP (Bell South)
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

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JUN 2 6 2002

OFFICE OF PETITIONS

In re Application of :
David R. Jean, et al. :
Application No. 09/946,398 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 36968/252478 :

This is in response to the petition under 37 CFR 1.47(a), filed April 9, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should 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.

An oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The oath or declaration submitted with the present petition does not comply with the requirements set forth in 37 CFR 1.63(a)(3) in that it does not list the post office address of David Jean. Petitioner should also note that the post office addresses of Judy Marcopulos and Rita Scherer are illegible.

37 CFR 1.63(a)(3) states:

> (a) An oath or declaration filed under § 1.51(b)(2) as a part of an application must:
>
> > Identify each inventor by: full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and the residence, post office address and country of citizenship of each inventor.

Further, MPEP 605.03 states in part:

> "Effective December 1, 1997, 37 CFR 1.63 has been amended to require the post office address of each inventor to be stated in the oath or declaration. Applicant's post office address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the post office address. The post office address should include the ZIP Code designation...In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary."

Additionally, the declaration submitted with the present petition does not comply with the requirements of 37 CFR 1.63(b). It appears that the first page of the executed declaration containing the affirmations required in § 1.63(b) is missing. See MPEP §§ 602.01 and 602.02.

37 CFR 1.63(b) states:

> In addition to meeting the requirements of paragraph (a), the oath or declaration must state that the person making the oath or declaration,
>
> > (1) Has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration;
> >
> > (2) Believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought; and
> >
> > (3) Acknowledges the duty to disclose the Office all information known to the person to be material to patentability as defined in § 1.56.

In view aforementioned deficiencies, a new, legible oath or declaration in compliance with 37 CFR 1.63 and 1.64, which includes the missing items noted above, signed by the other co-inventors on behalf of themselves and on behalf of non-signing inventor, David Jean, is REQUIRED. See MPEP 409.03(a).

In order to expedite consideration of the petition under § 1.47, petitioner may wish to consider submitting the renewed petition by facsimile transmission to the fax number listed below and to the attention of Marianne Morgan.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

or

Assistant Commissioner for Patents
P. O. Box 2327, Mail Stop DAC
Arlington, VA 22202

By FAX:
(703) 308-6916
Attn: Office of Petitions

By HAND:
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances M. 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

Mr. David R. Jean
610 Gable Drive
Birmingham, AL 35244

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of
David R. Jean ; Judy M. Marcopulos ; and Rita H. Scherer
Application No. 09/946,398
Filed: September 4, 2001
For: PROCESSES AND SYSTEMS FOR CREATING AND FOR MANAGING TROUBLE TICKETS AND WORK ORDERS

Dear Mr. David Jean:

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 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: John S. Pratt
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

John S. Pratt
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of :
David R. Jean, et al. :
Application No. 09/946,398 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 36968/252478 :

This is in response to the "Request for Reconsideration of Petition under 37 CFR 1.47(a)", filed August 23, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventor, David R. Jean, has refused to join in the filing of the above-identified application.

The 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 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Technology Center 2100.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances M. 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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Paper No. 6

John S. Pratt
Kilpatrick Stockton LLP (Bell South)
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

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JUN 2 1 2002

OFFICE OF PETITIONS

In re Application of
David R. Jean, et al.
Application No. 09/946,405
Filed: September 4, 2001
Attorney Docket No. 36968/252476

DECISION DISMISSING PETITION AND NOTICE OF ABANDONMENT

This is in response to the Petition Under 37 CFR 1.47(a) filed April 9, 2002.

A Notice of Informal Application (Notice) was mailed to applicant on October 9, 2001 requiring a new oath or declaration because the oath or declaration that was submitted with the original application papers did not identify the residence of each inventor. In reply to the Notice, petitioner filed the instant petition under 37 CFR 1.47. However, a petition under § 1.47 is required when an inventor's signature cannot be obtained. Since this application was filed with an oath or declaration executed by all of the inventors, a petition under § 1.47 is improper.

In view of the above, the petition is **DISMISSED AS MOOT**.

Nevertheless, petitioner has not submitted a proper reply to the Notice. Petitioner has supplied a copy of the originally filed oath or declaration. Again, this oath or declaration contains the signatures of all the inventors but omits the residence of the first named inventor, David Jean. Petitioner should have filed a supplemental oath or declaration under 37 CFR 1.67 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration, or petitioner could have filed an Application Data Sheet in compliance with 37 CFR 1.76, to include the residence of David Jean. Since neither of the two acceptable responses has been filed, this application became abandoned on April 10, 2002 (which includes the four month extension of time submitted with the instant petition).

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." See 37 CFR 1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997).* An "unintentional" petition must be accompanied by the $1,280 petition fee.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore, should be filed promptly. A person seeking revival due to unintentionally 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 § 1.137(b).

Additionally, the petition to revive must be accompanied by a supplemental oath or declaration in compliance with 37 CFR 1.67 or an Application Data Sheet which complies with the requirements set forth in 37 CFR 1.76.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

or

Assistant Commissioner for Patents
P. O. Box 2327, Mail Stop DAC
Arlington, VA 22202

By FAX:
(703) 308-6916
Attn: Office of Petitions

By HAND:
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE JC95 JUL 26 2002 PATENT & TRADEMARK OFFICE

Express Mail Cert. No. EL 834 337 332 US
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.	:	09/946,405	Art Unit	:	2643
In re	:	David R. Jean et al.	Examiner	:	Unassigned
Filed	:	September 4, 2001			
For	:	Methods And Systems For Assembling Telephone Line Records			

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ASSISTANT COMMISSIONER FOR PATENTS
Attention: Box DAC
Washington, D.C. 20231

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

This petition is in response to the "DECISION DISMISSING PETITION AND NOTICE OF ABANDONMENT" mailed for this application on June 21, 2002. A copy of the Decision is enclosed. Applicant hereby requests that the above-identified application, serial number 09/946,405, which was unintentionally abandoned, be revived.

On October 9, 2001, a "NOTICE OF INFORMAL APPLICATION" was mailed to Applicant. Applicant responded by filing a petition under 37 CFR § 1.47(a). The petition was dismissed, and stated that the application became abandoned on April 10, 2002.

The Decision invited the applicant to submit this petition to revive and an Application Data Sheet in compliance with 37 CFR 1.76. The Application Data Sheet is enclosed.

The entire delay in filing the proposed reply (Application Data Sheet), from April 10, 2002 until the filing of this petition was unintentional. Applicant believed that the petition under 37 CFR § 1.47 (a) was the proper response to the "NOTICE OF INFORMAL APPLICATION." applicant is promptly filing this response to the Decision mailed June 21, 2002.

This is a nonprovisional application. A check in the amount of $ 1280.00 for the petition fee under 37 CFR Section 1.17(m) is enclosed. Please credit any overpayment or charge any deficiency in relation to this petition to deposit account no. 16-1435.

Applicant respectfully requests that the application be declared revived and a finalized filing receipt be issued.

07/30/2002 AWONDAF1 00000167 09946405
01 FC:141 1280.00 OP

Respectfully submitted,

Date: 7/24/02

John Alemanni
Registration No. 47,384
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101
Phone: 336-607-7311

36968-252476
WINLIB01:959655.1

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Paper No. 6

John S. Pratt
Kilpatrick Stockton LLP (Bell South)
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

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JUN 21 2002
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In re Application of	:	
David R. Jean, et al.	:	DECISION DISMISSING
Application No. 09/946,405	:	PETITION AND NOTICE
Filed: September 4, 2001	:	OF ABANDONMENT
Attorney Docket No. 36968/252476	:	

This is in response to the Petition Under 37 CFR 1.47(a) filed April 9, 2002.

A Notice of Informal Application (Notice) was mailed to applicant on October 9, 2001 requiring a new oath or declaration because the oath or declaration that was submitted with the original application papers did not identify the residence of each inventor. In reply to the Notice, petitioner filed the instant petition under 37 CFR 1.47. However, a petition under § 1.47 is required when an inventor's signature cannot be obtained. Since this application was filed with an oath or declaration executed by all of the inventors, a petition under § 1.47 is improper.

In view of the above, the petition is **DISMISSED AS MOOT**.

Nevertheless, petitioner has not submitted a proper reply to the Notice. Petitioner has supplied a copy of the originally filed oath or declaration. Again, this oath or declaration contains the signatures of all the inventors but omits the residence of the first named inventor, David Jean. Petitioner should have filed a supplemental oath or declaration under 37 CFR 1.67 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration, or petitioner could have filed an Application Data Sheet in compliance with 37 CFR 1.76, to include the residence of David Jean. Since neither of the two acceptable responses has been filed, this application became abandoned on April 10, 2002 (which includes the four month extension of time submitted with the instant petition).

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." See 37 CFR 1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off. Gaz. Patent Office 63 (October 21, 1997).* An "unintentional" petition must be accompanied by the $1,280 petition fee.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentionally delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was

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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 § 1.137(b).

Additionally, the petition to revive must be accompanied by a supplemental oath or declaration in compliance with 37 CFR 1.67 or an Application Data Sheet which complies with the requirements set forth in 37 CFR 1.76.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

or

Assistant Commissioner for Patents
P. O. Box 2327, Mail Stop DAC
Arlington, VA 22202

By FAX:
(703) 308-6916
Attn: Office of Petitions

By HAND:
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DOCKETED
FOR: VLA
DUE DATE: 30 days / ASAP
ON: 7/2/02 BY: CB-D

07-29-02

EL837022332US

DAC

Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

OIPE JC95 JUL 26 2002 PATENT & TRADEMARK OFFICE

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) 1280

Complete if Known	
Application Number	09/946,405
Filing Date	September 4, 2001
First Named Inventor	David R. Jean, et al.
Examiner Name	Unassigned
Group / Art Unit	2643
Attorney Docket No.	36968-252476 (BS01007)

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number: 16-1435

Deposit Account Name: Kilpatrick Stockton LLP

The Commissioner is authorized to: *(check all that apply)*

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) ($) 0

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below	=	Fee Paid
Total Claims		-20 **	= 0	X		=	0
Independent Claims		-3 **	= 0	X		=	0
Multiple Dependent				X		=	0

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,280	241	640	Petition to revive – unintentional	1280
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17 (q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
				Other fee (specify) _____	

*Reduced by Basic Filing Fee Paid SUBTOTAL (3) ($) 1280

SUBMITTED BY				Complete *(if applicable)*	
Name (Print/Type)	John C. Alemanni	*Registration No. Attorney/Agent)*	47,384	*Telephone*	336.607.7311
Signature				*Date*	7-26-02

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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JUL 26 2002
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EXPRESS MAIL CERTIFICATE

"Express Mail" mailing label number	:	EL 834 337 332 US
Date of Deposit	:	July 26, 2002
Type of Documents	:	Transmittal; Petition to Revive Unintentionally Abandoned Application; Copy of Decision Dismissing Petition and Notice of Abandonment issued from the U.S. Patent Office on June 21, 2002; Application Data Sheet; Fee Transmittal; Check in the amount of $1,280 (petition fee); and Return postcard
Application No.	:	09/946,405
Filing Date	:	September 4, 2001

I hereby certify that the documents identified above are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, DC 20231.

_____(signature)
Heather Norman

8181:36968-252476
WINLIB01:960068.1

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PTO/SB/21 (08-00)

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/946,405
Filing Date	September 4, 2001
First Named Inventor	David R. Jean, et al.
Group Art Unit	2643
Examiner Name	Unassigned
Total Number of Pages in This Submission: 8	Attorney Docket Number: 36968-252476 (BS01007)

ENCLOSURES *(check all that apply)*

- [X] Fee Transmittal Form
  - [X] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [X] 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)*:

  Application Data Sheet;
  Copy of issued Decision Dismising Petition and Notice of Abandonment

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	John C. Alemanni, Esq. (Reg. No. 47,384) Kilpatrick Stockton LLP 1001 West Fourth Street Winston-Salem, NC 27101
Signature	John C. Alemanni
Date	7-26-02

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: ____

Typed or printed name			
Signature		Date	

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be send to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

John S. Pratt
Kilpatrick Stockton, LLP (Bell South)
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

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AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of :
David R. Jean, et al. :
Application No. 09/946,405 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 36968/252476 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2002, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2600.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CANTOR COLBURN LLP - BELLSOUTH
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of :
David R. Jean et al :
Application No. 09/946,405 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 36968/252476 :

This is a decision on the petition, filed August 29, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 25, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2617 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : August 29, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s)	:David R. Jean et al
Application No.	:09/946,405
Filed	:September 4, 2001

The above-identified application has been assigned Patent No. 7,106,841 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. 7,106,841 to David R. Jean et al of California for METHODS AND SYSTEMS FOR ASSEMBLING TELEPHONE LINE RECORDS appearing in the Official Gazette of September 12, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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

LAW OFFICE OF IDO TUCHMAN (YOR)
ECM #72212
PO Box 4668
New York, NY 10163-4668

Mail Date: 04/20/2010

Applicant	: Taiga Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7660991	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/946,408	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/05/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1931** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

MARK G. LAPPIN PC
McDERMOTT WILL & EMERY
28 STATE STREET
BOSTON, MA 02109

COPY MAILED

JUN 13 2002

OFFICE OF PETITIONS

In re Application of
Ido Schoenberg et al
Application No. 09/946,421
Filed: September 5, 2001
Atty Dkt No. 56321-028(MDSL-100DVI)

:DECISION ON PETITION
:UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2002, to revive an unintentionally abandoned application. This is also in response to the communication entitled "Response to Notice to File Missing Parts," which contends that the Notice of September 25, 2001 was issued in error since "there are no required items that are missing from the subject application, and thus there is no reply necessary." The latter petition will be treated as a petition under 37 CFR 1.181 to vacate the Notice of September 25, 2001.

The petition under 37 CFR 1.137(b) is **dismissed**.

The petition under 37 CFR 1.181 is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed;
(2) the petition fee as set forth in 37 CFR 1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

First turning to the petition under 37 CFR 1.181, petitioner states that this application is a divisional application of Application No. 09/341,065 which contained clams 1-40, all of which were canceled in a preliminary amendment except for claims 29-31, of which all the named inventors, except Hagai Sherlin, are the true inventors. Therefore, petitioner contends that, since Hagai Sherlin was not an inventor for the subject matter claimed, there were no missing parts.

A review of the file record discloses that a copy of the declaration from divisional Application No. 09/341,065, naming as inventors Ido Schoenberg, Phyllis Gotlib, Roy Schoenberg, and Hagai Sherlin, was present on filing. The copy of the declaration from the divisional application is executed by all the inventors except for inventor Hagai Sherlin.

MPEP 201.06(c), under the subheading "Inventorship," states, in part:

> To continue the practice in former 37 CFR 1.60(b)(4) of permitting the filing of a continuation or divisional application by all or by fewer than all of the inventors named in a prior application without a newly executed oath or declaration, 37 CFR 1.63(d)(2) provides that the copy of the oath or declaration submitted for a continuation or divisional application under 37 CFR 1.53(b) and 37 CFR 1.63(d) must be accompanied by a statement from applicant, applicant's representative or other authorized party requesting the deletion of the names of the person or persons who are not inventors in the continuation or divisional application. Where the continuation or divisional application and a copy of the oath or declaration from the prior application are filed without a statement from an authorized party requesting deletion of the names of any person or persons named in the prior application, the continuation or divisional application will be treated as naming as inventors the person or persons named in the copy of the executed oath or declaration from the prior application.

A further review of the file record fails to disclose the presence on the date of filing of the instant application a statement from an authorized party requesting the deletion of inventor Hagai Sherlin as an inventor. Therefore, the copy of the executed declaration from prior-filed parent Application No. 09/341,065 set the inventive entity for the

instant application, i.e., Ido Schoenberg, Phyllis Gotlib, Roy Schoenberg, and Hagai Sherlin.

Accordingly, the mailing of the Notice of September 25, 2001 requiring the signature of inventor Hagai Sherlin was proper and will not be vacated. In view thereof, the petition under 37 CFR 1.181 must be dismissed.

As to the petition under 37 CFR 1.137(b), since a properly executed oath or declaration or the filing of a petition under 37 CFR 1.48(a) to correct the inventorship has not been submitted, the petition under 37 CFR 1.137(b) lacks the proper response to continue prosecution.

Further correspondence with respect to this matter should be addressed as follows:

By mail: U.S. Patent and Trademark Office
P.O. Box 2327
Mail Stop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

MARK G. LAPPIN PC
McDERMOTT WILL & EMERY
28 STATE STREET
BOSTON, MA 02109

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AUG 1 2002

OFFICE OF PETITIONS

In re Application of
Ido Schoenberg et al
Application No. 09/946,421
Filed: September 5, 2001
Atty Dkt No. 56321-028 (MDSL-110DVI)

:DECISION ON PETITION
:UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 24, 2002, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely respond to the Notice to File Missing Parts of Nonprovisional Application, mailed September 25, 2001, which set a two month period within which to supply an executed oath or declaration and a surcharge fee of $65 for its late submission. No reply or extensions of time pursuant to the provisions of 37 CFR 1.136(a), this application became abandoned by operation of law on November 26, 2001.

The petition satisfies the requirements of 37 CFR 1.137(b) for reviving the instant application. Accordingly, the reply to the Notice of September 25, 2001 will be accepted as having been unintentionally delayed.

Receipt is acknowledged of a petition under 37 CFR 1.48(b) to correct inventorship, an executed declaration by inventors Ido Schoenberg, Phyllis Gotlib and Roy Schoenberg, and $65 surcharge fee.

The renewed petition under 37 CFR 1.137(b) was accompanied by a $640 fee. However, since the $640 petition fee was previously submitted with the petition of April 5, 2002, no additional revival fee is due. Accordingly, the $640 petition fee submitted with the petition of July 24, 2002 will be refunded to petitioner's deposit account.

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 $980 extension of time submitted with the petition on July 24, 2002 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will likewise be credited to petitioner's deposit account.

Any inquiries concerning this decision on petition may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing.

Frances Hicks
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

MATTINGLY, STANGER & MALUR, P.C.
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA, VA 22314

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MAY 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Yuuki et al.	:	DECISION
Application No. 09/946,451	:	ON PETITION
Filed: September 6, 2001	:	
Atty Docket No. ASA-1032	:	

This is a decision in response to 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 file a complete and proper appeal brief after filing a Notice of Appeal. Applicant filed a Notice of Appeal on April 20, 2005. Thereafter, Applicant was given two (2) months within which to file an appeal brief. Having failed to file an appeal brief, and since no claims were allowed, the appeal was dismissed, and the proceedings as to the rejected claims were terminated, the application became abandoned on March 6, 2004[1]. See, 37 CFR 1.192 and MPEP 1206[2].

[1] If there are no allowed claims, the application is abandoned as of the date the brief was due. If the time for filing a brief has passed and the application has consequently become abandoned, the applicant may petition to revive the application, as in other cases of abandonment, and to reinstate the appeal; if the appeal is dismissed, but the application is not abandoned, the petition would be to reinstate the claims and the appeal, but a showing equivalent to that in a petition to revive under 37 CFR 1.137 is required. In either event, a proper brief must be filed before the petition will be considered on its merits.

[2] Although failure to file the brief within the permissible time will result in dismissal of the appeal, if any claims stand allowed, the application does not become abandoned by the dismissal, but is returned to the examiner for action on the allowed claims. See MPEP § 1215.04.

With the instant petition, Petitioner has filed the appropriate response in the form of a continuing application. This application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is abandoned in favor of the Continuing Application, number 11/253,833, filed October 20, 2005.

This application is being referred to the files repository.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T DELAWRE INTELLECTUAL PROPERTY, INC.
600 GALLERIA PARKWAY, S.E., STE. 1500
ATLANTA GA 30339-5994

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
Scott M. Frank et al : DECISION ON PETITIONS
Application No. 09/946,457 :
Filed: September 6, 2001 :
Attorney Docket No. BS00-109-CON :

This is a decision on the petition, filed January 28, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed January 28, 2008, under 37 CFR §§ 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §120 of the prior-filed application set forth in the concurrently filed amendment.

The petitions are **Granted**.

As to the petitoin under 37 CFR 1.313(c)(2):

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 6, 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]

---

[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).

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 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 application is submitted after expiration of the period specified in 37 CFR § 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR § 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(3) in that (1) a reference to the above-noted, prior-filed 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 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 <u>not</u> 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. §120 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 <u>not</u> 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 Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. 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 3629 for appropriate action on the amendment submitted January 28, 2008, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of prior-filed Application No. 09/750,000.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT : Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/946,457	09/06/2001	3629	1518	BS00-109-CON	53	4

CONFIRMATION NO. 6344

REPLACEMENT FILING RECEIPT

38823
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T Delaware Intellectual Property, Inc.
600 GALLERIA PARKWAY, S.E.
SUITE 1500
ATLANTA, GA 30339-5994

OC00000027997257

Date Mailed: 01/30/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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**

Applicant(s)

Scott M. Frank, Dunwoody, GA;
Carol T. Beckham, Marietta, GA;
Christopher M. Arena, Duluth, GA;
Martin L. McLendon, Tucker, GA;
Shannon M. Short, Atlanta, GA;
JoAnn M. Sherman, New Boston, NH;
Steven Overcash, Grayson, GA;
Michael Bishop, Atlanta, GA;
Vernon Meadows, Lilburn, GA;
La Veria Baker, Lithonia, GA;
Amy Sherwood, Marietta, GA;
Mary Van Ehrlich, Atlanta, GA;
Michael Charles Stevens, San Jose, CA;
Adam Jaffe, Leonia, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 38823

Domestic Priority data as claimed by applicant

This application is a CON of 09/750,000 12/29/2000 ABN
which claims benefit of 60/173,919 12/30/1999
and claims benefit of 60/192,862 03/29/2000

Foreign Applications

If Required, Foreign Filing License Granted: 09/21/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/946,457**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
Title

SYSTEM AND METHOD FOR MANAGING INTELLECTUAL PROPERTY

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

Pennie & Edmonds
1155 Avenue of the Americas
New York, NY 10036-2711

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DEC 10 2001

OFFICE OF PETITIONS

In re Application of
Bernard Koether
Application No. 09/946,461
Filed: September 4, 2001
For: Diagnostic Data Interchange

: DECISION GRANTING
: PETITION

This is a decision on the paper styled "Petition To Correct Filing Date" filed October 10, 2001, requesting that the above-identified application be accorded a filing date of September 4, 2001, rather than the presently accorded filing date of September 5, 2001. The request is properly being treated as a petition under 37 CFR 1.10(c), as filed.

Petitioner alleges that the application was filed on September 4, 2001. In support of the petition, petitioner has provided a copy of an "Express Mail" mailing label bearing "Express Mail" label no. EL501641450US, the same "Express Mail" label number which appears on the original application transmittal letter filed with the application papers. Petitioner requests that the application be accorded a filing date of September 4, 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 September 4, 2001.

The petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 4, 2001 and for mailing of a corrected Filing Receipt.

Telephone inquiries concerning this matter may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
Inadomi et al. :
Application No.: 09/946489 :
Filing or 371(c) Date: 09/06/2001 :
Attorney Docket Number: :
1272.C0473 : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action Under MPEP 711.03(c)(I)(A)," filed November 1, 2007. The petition is properly treated under 37 CFR 1.181(a)).

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 August 26, 2004. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on November 27, 2004. A Notice of Abandonment was mailed October 1, 2007.

With the instant petition, Applicant has demonstrated non-receipt of the Office Action by a preponderance of the evidence.

The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2621 for re-mailing of the Office action and for e-setting the period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/946,499	09/06/2001	Koji Tominaga	Q66122	4684

7590 01/16/2003

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER
TUNG, TA HSUNG

ART UNIT	PAPER NUMBER
1743	9

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: APR 8 2004

rvk
Paper Number: 4

In re application of :
Koji Tominaga et al : DECISION ON
Serial No. 09/946,499 : PETITION
Filed: September 06, 2001 :
For: PH SENSOR :

This is a response to the PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER MPEP SECTION 711.03(c) II , filed September 12, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of August 11, 2003, for failure to timely file a proper response to the Office letter dated January 16, 2003 be withdrawn. The petitioner asserts that the Office letter of January 16, 2003 was not received by applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Office letter of January 16, 2003 was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Office letter of January 16, 2003 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter of January 16, 2003 was not received. Also provided is a copy of the attorney's application docket records covering a time period of January 16, 2003 through January 30, 2003,where the Office letter of January 16, 2003 would have been posted had it been timely received. A review of the instant application file indicates that the USPTO records

have not included the office building number (i.e. "2100") of the address of the attorney.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037

UNITED STATES 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

William Collard
Collard & Roe, P.C.
1077 Northern Boulevard
Roslyn, NY 11576

COPY MAILED

NOV 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Steven Kennerknecht, et. al. :
Application No. 09/946,574 : ON PETITION
Filed: September 5, 2001 :
Attorney Docket No. KENNERKNECHT, ET AL. :

This is a decision on the petition under 37 CFR 1.137(b), filed November 6, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 28, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight May 28, 2002.

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 3700, 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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T DELAWARE INTELLECTUAL PROPERTY, INC.
600 GALLERIA PARKWAY, S.E., STE. 1500
ATLANTA GA 30339-5994

COPY MAILED

JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
Scott M. Frank et al : DECISION ON PETITIONS
Application No. 09/946,593 :
Filed: September 6, 2001 :
Attorney Docket No. BS00-426-CON :

This is a decision on the petition, filed January 28, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition filed January 28, 2008, under 37 CFR §§ 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §120 of the prior-filed application set forth in the concurrently filed amendment.

The petitions are **Granted**.

As to the petitoin under 37 CFR 1.313(c)(2):

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, 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]

---

[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).

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 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 application is submitted after expiration of the period specified in 37 CFR § 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR § 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(3) in that (1) a reference to the above-noted, prior-filed 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 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 <u>not</u> 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. §120 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 <u>not</u> 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 Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. 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 3629 for appropriate action on the amendment submitted January 28, 2008, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of prior-filed Application No. 09/750,136.

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT : Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/946,593	09/06/2001	3629	1668	BS00-426-CON	62	2

CONFIRMATION NO. 4396

REPLACEMENT FILING RECEIPT

38823
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
AT&T Delaware Intellectual Property, Inc.
600 GALLERIA PARKWAY, S.E.
SUITE 1500
ATLANTA, GA 30339-5994

OC00000027995162

Date Mailed: 01/30/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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**

Applicant(s)

Scott M. Frank, Dunwoody, GA;
Carol T. Beckham, Marietta, GA;
Martin L. McLendon, Tucker, GA;
Shannon M. Short, Atlanta, GA;
Michael Bishop, Atlanta, GA;
Maia Y. Sharpley, New York, NY;

Power of Attorney: The patent practitioners associated with Customer Number 28970

Domestic Priority data as claimed by applicant

This application is a CON of 09/750,136 12/29/2000 ABN
which claims benefit of 60/173,919 12/30/1999
and claims benefit of 60/192,862 03/29/2000

Foreign Applications

If Required, Foreign Filing License Granted: 10/10/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/946,593**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

SYSTEM AND METHOD FOR MANAGING INTELLECTUAL PROPERTY LIFE CYCLES

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Attn: Box Missing Parts
Washington, D.C. 20231

On March 6, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: Paula Fawcett Hurley

PATENT
Attorney Docket No.: 018547-036760US
Client Reference No.: 1000.2A13

OIPE
MAR 18 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS
ORIGINALLY FILED

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Stephen A. Fodor et al.

Application No.: 09/946605

Filed: September 4, 2001

For: Very Large Scale Immobilized Polymer Synthesis

Examiner: Unassigned

Art Unit: 1645

TRANSMITTAL LETTER – RESPONSE TO NOTICE OF MISSING PARTS

Attn: Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to the Notice to File Missing Parts of Nonprovisional Application, dated January 11, 2002, applicants submit papers effecting a change of inventorship.

These papers include declarations signed by Pirrung and Read, as required by the Notice of Missing Parts. Enclosed are the following to be made of record in the above-identified application:

1) Copy of Notice of Missing Parts
2) Application Data Sheet
3) Petition to Correct Inventorship under 37 CFR 1.48 (a) and duplicate copy

4) Copy of Statement of Facts in Support of Petition to Correct Inventorship under 37 CFR 1.48 (a), (b), and (c)
5) Copy of Declaration of actual inventors under 37 CFR 1.63
6) Copy of Consent of Assignee to Correct Inventorship under 37 CFR 1.48 (a)
7) Copy of Chain of Title Certificate under 37 CFR 3.73 (b)
8) Copy of Petition to Correct Inventorship under 37 CFR 1.48 (a), (b), and (c)

Please charge Deposit Account No. 20-1430 for the following fees:

(a)	Petition to Correct Inventorship under 37 CFR 1.48 (a)	$130
(b)	Missing Parts Surcharge	$130
TOTAL FEES TO BE CHARGED		$260

The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 20-1430. This Transmittal Letter is submitted in duplicate.

Respectfully submitted,

Joe Liebeschuetz
Reg. No. 37,505

Customer No. 20350

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 650-326-2422

JOL:pfh

PA 3205619 v1

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Please type a plus sign (+) inside this box → [+]

PTO/SB/21 (08-00)
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OIPE JC34 MAR 18 2002 PATENT & TRADEMARK OFFICE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission: 33

Application Number	09/946605
Filing Date	September 5, 2001
First Named Inventor	Fodor, Stephen A.
Group Art Unit	1645
Examiner Name	Unassigned
Attorney Docket Number	018547036760

ENCLOSURES *(check all that apply)*

- [x] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment / Response
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [x] Response to Missing Parts/ Incomplete Application
  - [ ] Response to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Assignment Papers *(for an Application)*
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition Routing Slip (PTO/SB/69) and Accompanying Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s)
- [ ] After Allowance Communication to Group
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) *(please identify below)*:
  - Return Postcard
  - Supplemental ADS
  - Petition to Correct Inventorshio under 37 CFR 1.48 (a) and duplicate copy
  - Copy of Statement of Facts in Support of Petition to Correct Inventorship under 37 CFR 1.48 (a), (b), and (c)
  - Copy of Declaration of actual Inventors under 37 CFR 1.63
  - Copy of Consent of Assignee to Correct Inventorship under 37 CFR 1.48 (a) (4)
  - Copy of Chain of Title Certificate under 37 CFR 3.73 (b)
  - Copy of Petition to Correct Inventorship under 37 CFR 1.48 (a), (b), and (c)

Remarks: The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

COPY OF PAPERS ORIGINALLY FILED

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Townsend and Townsend and Crew LLP Joe Liebeschuetz Reg No. 37,505
Signature	
Date	March 6, 2002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: March 6, 2002

Typed or printed name	Paula Faulk Hurley		
Signature		Date	March 6, 2002

PTO/SB/17 (09-00)
Approved for use through 10/31/2002. OMB 0651-0032
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.

OIPE MAR 18 2002 PATENT & TRADEMARK OFFICE

FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

Complete if Known	
Application Number	09/946,605
Filing Date	September 5, 2001
First Named Inventor	Fodor, Stephen A.
Examiner Name	1645
Group Art Unit	Unassigned
Attorney Docket No.	018547-036760US

COPY OF PAPERS ORIGINALLY FILED

TOTAL AMOUNT OF PAYMENT ($) 260

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 20-1430

Deposit Account Name: Townsend and Townsend and Crew LLP

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☐ **Payment Enclosed:**

☐ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Large Entity Fee ($)	Small Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	
106	320	206	160	Design filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES

			Extra Claims		Fee from below		Fee Paid
Total Claims		-20**	=	X		=	
Independent Claims		-3**	=	X		=	
Multiple Dependent				X		=	

Large Fee Code	Large Entity Fee ($)	Small Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Fee Code	Large Entity Fee ($)	Small Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	130
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive – unavoidable	
141	1,240	241	620	Petition to revive – unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	130
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))	
179	710	279	355	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify)					

The Commissioner is authorized to charge any additional fees to the above noted Deposit Account.

*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)** ($)260

SUBMITTED BY					Complete (if applicable)
Name (Print/Type)	Joe Liebeschuetz	Registration No. (Attorney/Agent)	37,505	Telephone	650-326-2400
Signature				Date	March 6, 2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231. PA 3169184 v1

MAR 18 2002 PATENT AND TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/946,605	09/05/2001	Stephen P.A. Fodor	018547-036760US

CONFIRMATION NO. 5901

FORMALITIES LETTER

OC0000000007298114

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY OF PAPERS ORIGINALLY FILED

Date Mailed: 01/11/2002

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 signature of the following inventor(s) is missing from the oath or declaration:
  J. Leighton Read & Michael Pirrung
- 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 $ 130.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

03/20/2002 SDENBOB1 00000002 201430 09946605
01 FC:105 130.00 CH

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Stefan Van Rafelghem
13562 Northbourne Drive
Centerville, VA 20120-1787

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DEC 19 2001

OFFICE OF PETITIONS

In re Application of
Griffith, *et al.*
Application No. 09/946,614
Filed: September 6, 2001
Attorney Docket No. 108948

Dear Mr. Van Rafelghem:

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 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 or record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703-306-5593. 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).

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Oliff & Berridge, P.L.C.
P.O. Box 19928
Alexandria, Virginia 22320

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

Oliff & Berridge, P.L.C.
P.O. Box 19928
Alexandria, Virginia 22320

In re Application of
Griffith, *et al.*
Application No. 09/946,614
Filed: September 6, 2001
Attorney Docket No. 108948

: DECISION GRANTING STATUS
: UNDER 37 C.F.R. §1.47(a)

This is in response to the November 16, 2001 petition under 37 C.F.R. §1.47(a).

Applicant filed the above-identified application on September 6, 2001, naming Thomas Griffith, Stefan Van Rafelghem, Stephen Russell, and Ronald Hirsch as joint inventors. However, the declaration lacked the signature of co-inventor Stefan Van Rafelghem. Accordingly, on October 9, 2001, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts (hereinafter "the notice") to the address of record. The notice set a two month deadline for responding, running from the mail date of the notice.

Petitioner filed this response to the notice on November 16, 2001.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the OIPE for further processing under rule 1.47(a).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-5593

COPY MAILED

DEC 19 2001

OFFICE OF PETITIONS

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 15 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
www.uspto.g

Paper No. 12

George Likourezos
9321 Ridge Boulevard
Brooklyn, New York 11209

In re Application of: George Likourezos et al.	)	
Application No. 09/946,616	)	
Filed: September 5, 2001	)	DECISION ON PETITION TO
For: SYSTEM AND METHOD FOR	)	MAKE SPECIAL UNDER
EFFECTING A REAL-TIME	)	M.P.E.P. §708.02(II):
PAYMENT FOR AN ITEM WON ON	)	INFRINGEMENT
AN ELECTRONIC AUCTION	)	

This is a decision on the petition, filed March 2, 2002, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, ***some of the claims*** are **unquestionably infringed**: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Applicant must provide one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

Applicant's submission is deficient for the following reasons: (1) there is no statement that ***a claim*** is ***unquestionably*** infringed as required in (B) above and (2) because no references deemed most closely related have been submitted. Accordingly, the Petition is **DENIED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

SEP 13 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

George Likourezos
9321 Ridge Boulevard
Brooklyn, NY 11209

Paper No. 15

In re application of : **DECISION ON PETITION**
Gerorge Likourezos et al. : **TO MAKE SPECIAL**
Application No. 09/946,616 : **(INFRINGEMENT)**
Filed: September 5, 2001
For: SYSTEM AND METHOD FOR EFFECTING A REAL-TIME PAYMENT FOR AN ITEM WON ON AN ELECTRONIC AUCTION

This is a decision on the renewed petition under 37 C.F.R § 1.102(d) filed June 7, 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.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The renewed petition filed June 7, 2002 includes all of the missing requirements of the original petition of March 2, 2002 and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/snm : 9/9/02

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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WASHINGTON, DC 20231
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OIPE JC151
JUN 0 2 2004
PATENT & TRADEMARK OFFICE

MAILED

SEP 1 3 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

George Likourezos
9321 Ridge Boulevard
Brooklyn, NY 11209

Paper No. 15

In re application of : **DECISION ON PETITION**
Gerorge Likourezos et al. : **TO MAKE SPECIAL**
Application No. 09/946,616 : **(INFRINGEMENT)**
Filed: September 5, 2001
For: SYSTEM AND METHOD FOR EFFECTING A REAL-TIME PAYMENT FOR AN ITEM WON ON AN ELECTRONIC AUCTION

RECEIVED
JUN 8 2004
GROUP 3600

This is a decision on the renewed petition under 37 C.F.R § 1.102(d) filed June 7, 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.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The renewed petition filed June 7, 2002 includes all of the missing requirements of the original petition of March 2, 2002 and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/snm : 9/9/02

OIPE JC151
JUN 02 2004
PATENT & TRADEMARK OFFICE

THE U.S. PATENT AND TRADEMARK OFFICE DATE STAMP WILL ACKNOWLEDGE RECEIPT OF:

1. Supplemental Information Disclosure Statement
2. 1449 Form
3. Copy of Cited Reference

ALL UNDER CERTIFICATE OF MAILING

Applicants: Likourezos et al.
Serial No. 09/946,616
Filed: September 5, 2001
For: SYSTEM AND METHOD FOR EFFECTING A REAL-TIME PAYMENT FOR AN ITEM WON ON AN ELECTRONIC AUCTION
Group Art Unit: 2164
Attny. Docket No. 1002 CIP
Mailed: September 12, 2002

RECEIVED
JUN 8 _ 2004
GROUP 3600

THE U.S. PATENT AND TRADEMARK OFFICE DATE STAMP WILL ACKNOWLEDGE RECEIPT OF:

1. Supplemental Information Disclosure Statement
2. 1449 Form
3. Copy of Cited Reference

ALL UNDER CERTIFICATE OF MAILING

Applicants: Likourezos et al.
Serial No. 09/946,616
Filed: September 5, 2001
For: SYSTEM AND METHOD FOR EFFECTING A REAL-TIME PAYMENT FOR AN ITEM WON ON AN ELECTRONIC AUCTION
Group Art Unit: 2164
Attny. Docket No. 1002 CIP
Mailed: September 12, 2002

OIPE JC26
SEP 16 2002
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Johnny A. Kumar
FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, DC 20007-5109

PROCESSED BY
PG PUB DIVISION

JUN 27 2002

Applicant: Akinori Iwase et al.
Appl. No.: 09/946,620
Filing Date: September 6, 2001
Title: PRINTING SYSTEM
Attorney Docket No.: 016907/1278
Pub. No.: US 2002/0048042 A1
Pub. Date: April 25, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was on June 12, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains improper priority claims to the following foreign applications: JP 2001-265005 filed August 31, 2001, JP 2001-261953 filed August 30, 2001 and JP 2000-262908 filed August 31, 2000, as the foreign priority claims were not made by applicant.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request does not identify a material mistake in the publication made by the Office:

The errors in the priority claims are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The improper foreign priority claims are not material mistakes because they do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The errors also do not affect the use of the patent application publication as a prior art reference, because the priority claims are to foreign applications.

The applicant is advised that a "request for republication of an application previously published"

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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 63, 75 (Oct. 10, 2000) (final rule).

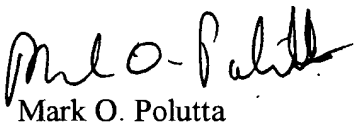
may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington, DC 20231

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 18 2006

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

In re Application of :
Wen-Chung Chao :
Application No. 09/946,637 :
Filed: September 06, 2001 :
For: METHOD OF E-PAYMENT FOR PURCHASE

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 June 29, 2005. There is no fee for this petition.

The petition is **GRANTED**.

A review of the application file record shows this application was held abandoned for failure to timely respond to the Office action mailed December 14, 2004, which set a three-month shortened statutory period for response. A Notice of Abandonment to that effect was mailed June 22, 2005. (Note that the Notice of Abandonment incorrectly identifies the Office action mail date as December 12, 2004, rather than December 14, 2004).

Applicant contends that the Office action mailed December 14, 2004 was never received. Applicant notes on September 07, 2004, a response to an outstanding Office action was submitted which included a Revocation of Power of Attorney and Appointment of New Attorney, and a Change of Address Form.

Further review of the application file record reveals that the September 07, 2004 response did include a Revocation of Power of Attorney and Appointment of New Attorney, and a Change of Address Form. As the Office failed to process the new power of attorney and change of address both the Office Action mailed December 14, 2004 and the Notice of Abandonment mailed June 22, 2005, were sent to the originally filed correspondence address.

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 re-dating and re-mailing the Office action, originally mailed on December 14, 2004, to the correspondence address submitted on September 07, 2004.

Randolph A Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/rjc: 09/24/05

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)
6649216	2003-11-18	09946718	2001-09-05	MFA-67

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Timothy A. Cassidy Reg. No. 38024/	Date (YYYY-MM-DD)	2008-05-16
Name	Timothy A. Cassidy	Registration Number	38024

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. 6649216
Issue Date: November 18,2003
Application No. 09946718
Filed: September 5,2001
Attorney Docket No. DF1248USU

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 20,2008 ,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 May 20,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Armin Ebrahimi et al :
Application No. 09/946,772 : DECISION ON PETITION
Filed: September 4, 2001 : TO WITHDRAW
Attorney Docket No. 017887-009200US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 23, 2005.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Philip H. Albert on behalf of all attorneys/agents of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

Applicants are reminded that there is no attorney of record at this time.

A power of attorney submitted on October 5, 2005 and resubmitted April 25, 2006 was improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

The request to change the correspondence of record is not acceptable as the requested

correspondence address is not that of: (1) the first named inventor; and (2) the assignee of the entire interest. All future communications from the Office will be directed to the first named inventor at the below-listed address until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3622.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: BRINKS HOFER GILSON & LIONE
NBC TOWER, SUITE 3600
455 N. CITYFRONT PLAZA DRIVE
CHICAGO, IL 60611-5599

ARMIN EBRAHIMI
307 BELGATOS LANE
LOS GATOS, CA 95032

YAHOO! INC.
701 FIRST AVENUE
SUNNYVALE, CA 94089

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 12

CARDICA, INC.
900 SAGINAW DRIVE
REDWOOD CITY, CA 94063

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OFFICE OF PETITIONS

In re Application of :
Vargas et al. :
Application No. 09/946,791 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 032405-061 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 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 Notice to File Missing Parts of Application (Notice) mailed October 10, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 11, 2001. A Notice of Abandonment was mailed on February 5, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Alexander Gerasimow
Allen-Bradley Company
Patent Dept., 704P Floor 8 T29
1201 South Second Street
Milwaukee WI 53204

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Luttrell :
Application No. 09/946,863 : ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. REEL:0027/YOD :
99RE178-A
For: METHOD AND APPARATUS FOR PRODUCING WINDING SLOT INSULATORS AND INSERTING SAME INTO THE STATOR CORE OF AN ELECTROMECHANICAL MACHINE

This is a decision on the petition under 37 CFR 1.181, filed September 2, 2005 (certificate of mailing date August 29, 2005), requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

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.

This application was held abandoned for failure to file a proper follow up submission within two months of the filing of the December 27, 2004 Notice of Appeal. The Office contended that the application became abandoned on February 28, 2005. A Notice of Abandonment was mailed on August 10, 2005.

Petitioner asserts that a reply was timely filed on certificate of mailing date February 28, 2005 (a Monday)and received in the Office on March 4, 2005.

Copied from 10946863 on 07/06/2006

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The appeal brief bears a proper certificate of mailing, dated February 28, 2005, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. The appeal brief is present in the application file and was received in the Office on March 4, 2005. Office financial records shows that the required appeal brief filing fee was charged.

Therefore, the appeal brief was timely filed. The petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the August 10, 2005 Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3726 for consideration of petitioner's appeal brief timely filed on certificate of mailing date February 28, 2005 and received in the Office on March 4, 2005.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: FLETCHER YODER
PO BOX 692289
HOUSTON, TX 77269-2289

Copied from 10946863 on 07/06/2006

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

OCT 29 2002

Paper No. 8

In re Application of	:	
Arlan Duane Lothe	:	
Serial No. 09/946,896	:	DECISION ON PETITION
Filed: September 4, 2001	:	TO MAKE SPECIAL
For: CONTROL SYSTEM FOR A HAND-HELD TOOL	:	

Applicant's petition, filed October 3, 2002, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

J. Scott Anderson
Alston and Bird LLP
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 11

Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Ian Revie, et. al. :
Application No. 09/946,924 : ON PETITION
Filed: September 5, 2001 :
Attorney Docket No. DEP-0587 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2003[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 24, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight April 24, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $1300 for the petition to revive fee, an amendment, and $930 for a three (3) months extension of time.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $930 extension of time submitted with the petition on October 6, 2003, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Since all the requirements for a grantable petition have been met, the petition is **GRANTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to Technology Center 3700, 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

CC: John S. Wagley
700 Orthopaedic Drive
Warsaw, IN 46581

[1]The instant petition was accompanied by a Certificate of Mailing dated September 30, 2003.

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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Foley and Lardner LLP
Suite 500
3000 K Street NW
Washington DC 20007

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Haslam et al. :
Application No. 09/946,958 : DECISION GRANTING PTA REQUEST
Patent No.: 6,843,962 :
Filed: September 6, 2001 :
Attorney Docket No. *078883.0138

This decision is in response to "APPLICANTS' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d) timely[1] filed on March 15, 2005 requesting that the Office adjust the PTA calculation form a determination of 461 days to a determination of 503 days.

Applicants' request for reconsideration of PTA is **GRANTED.** The Office will adjust the PTA determination found in PAIR from a determination of 461 days to a determination of 503 days. The Office will also *sua sponte* issue a certificate of correction reflecting this change.

Applicants assert that five hundred and three days of Office delay for failing to initially act upon the application within 14 months under 37 CFR 1.702(a)(1) is accurate. Applicants however contest the 42 days of PTA reduction for the submission of a set of drawings on December 8, 2002. Applicants assert that the drawings were in fact filed prior to the mail date of the notice of allowance and accordingly no drawings were submitted after the mailing of the notice of allowance.

Applicants arguments are persuasive. The Office notes that the examiner mailed a corrected notice of allowance to applicants on October 5, 2004 noting that the formal drawings were in fact already received by the Office. Accordingly, the Office itself acknowledged that no drawings submitted after the mail date of the notice of allowance. Therefore, the reduction for the alleged submission of drawings after the mail date of the notice of allowance was an errant PALM entry and not a reduction pursuant to 37 CFR 1.704(c)(10). Accordingly, the correct amount of PTA at the time of the issuance of the patent is 503 (503-0=503).

After the mailing of this decision, the application will be forwarded to the certificate of correction branch for a prompt issuance of the certificate of correction.

---

[1]Patent issue on Jan. 18, 2005.

Application No. 09/946,958

The Office has assessed the $200.00 request for reconsideration of PTA fee. No additional fees are required in deciding this request.

Any questions concerning this matter should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-757.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted PAIR calculation
Draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

APR - 1 2003

Paper No. 10

In re Application of :
Ilan Tochner et al. : DECISION REGARDING
Serial No. 09/946,959 : WITHDRAWAL OF ATTORNEY
Filed: September 6, 2001 :
For: COEXISTENT INTERACTION :
BETWEEN A VIRTUAL CHARACTER:
AND THE REAL WORLD :

By papers filed on March 21, 2003, counsel has petitioned to withdraw as attorney of record in this application. The petition is DISMISSED.

Attention is invited to MPEP 402.06 and 37 CFR 10.40(c). A petition to withdraw as attorney or agent of record should (1) should indicate the last known mailing address of the applicant, (2) should be signed by all members of the firm or indicate on its face that the member of the firm signing the petition has the authority to withdraw on behalf of all members of the firm, and (3) state the reason(s) for withdrawal as set forth in 37 CFR 10.40(c). The instant petition does not comply with 1 and 3 above.

The petition to withdraw as attorney may be renewed if such is done seasonably.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Richard C. Peet
Foley and Lardner
3000 K Street, NW, Suite 500
Washington, DC 20007-5109

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

MAIL

NOV 22 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:

09/947,004

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Steve Volk
Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 9

STEVE VOLK
CHAIRMAN OF THE BOARD
DATAPLAY, INC.
2560 55TH STREET
BOULDER, CO 80301-5706

MAILED

FEB 0 3 2003

Technology Center 2600

In re Application Serial No.:

09/947,004

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request filed 12/24/02 to Withdraw as Attorney is **DISMISSED AS MOOT**.

The petitioner, James E. Parsons, is no longer of record as attorney and agent. Therefore, he cannot request a change of address.

There appears to be two addresses for the applicant. If the address of record (above) is improper, applicant must submit a formal Change of Correspondence Address.

Further communications will continue to be directed to the address of record listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

cc: Alan MacPherson
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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GARLICK, HARRISON & MARKISON, LLP
P.O. BOX 160727
AUSTIN TX 78716

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Laksono :
Application No. 09/947,013 : ON PETITION
Filed: September 5, 2001 :
Attorney Docket No. VIXS 021 :
For: METHOD AND APPARATUS FOR CUSTOMIZING MESSAGING WITHIN A CABLE SYSTEM

This is a decision on the petition under 37 CFR 1.53(e), filed October 8, 2003, requesting that the above-identified application be accorded a filing date of September 5, 2001.

The application was deposited on September 5, 2001. On June 4, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on September 5, 2001 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of September 5, 2001 on the basis that 6 sheets of formal drawing figures were received in the Patent and Trademark Office (PTO) on September 5, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 5, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 6 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 6 sheets of formal drawings were filed on September 5, 2001. MPEP 503. Accordingly, the request is granted. No petition fee has been or will be charged in connection with this matter.

It is noted that the application contains method claims. Therefore, even if petitioners did **not** have a postcard receipt proving drawings were filed on September 5, 2001, the application would have been entitled to a filing date without drawings.

No extension of time fee is required as the June 4, 2003 Notice of Incomplete was mailed in error. The $210.00 extension of time submitted on October 8, 2003 will be refunded by way of a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 5, 2001**, using the copy of the 6 sheets of formal drawings submitted with the instant petition. Office records will be corrected to show that 6 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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N. Paul Friederichs
Angenehm Law Firm, Ltd.
P.O. Box 48755
Coon Rapids, MN 55448

MAILED

APR 23 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Paul Berman et al.
Application No. 09/947,036 : DECISION ON REQUEST
Filed: July 12, 2001 : FOR WITHDRAWAL OF
For: PET BRUSH SYSTEM : ATTORNEY

This is a decision on the request filed on December 23, 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 condition B) above.

As to condition B), given the statement in the request that "counsel elected to terminate the relationship with the client when communication broke down between the attorney and client", it is not clear that the statement satisfies one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). Condition B) can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6).

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 3/12/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 9

N. PAUL FRIEDERICHS
ANGENEHM LAW FIRM, LTD.
P.O. BOX 48755
COON RAPIDS, MN 55448

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of
Berman et al.
Application No. 09/947,036
Filed: July 12, 2001
Title: Pet Brush System

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 4, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed July 3, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 4, 2002. A Notice of Abandonment was mailed May 7, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition does not lack any of the above items. However, amendments and other papers, including petitions under 37 C.F.R. § 1.137(b), filed in an application must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);

---

[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).

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) **All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.**

Only one of the three listed inventors for the instant application signed the instant petition and amendment. Accordingly, both documents must be resubmitted with **all** of the inventors' signatures. At that point in time, the instant application will be revived and returned to pending status.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A copy of the appropriate form is enclosed for petitioner's convenience. This document must also be signed by **all** of the inventors. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: PTO/SB/122 – Change of Correspondence Address

cc: JAY R. LEFKOVITZ
141 VAUGHNS GAP
NASHVILLE, TN 37205

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 13

JAY R. LEFTOVITZ
141 VAUGHNS GAP
NASHVILLE, TN 37205

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Berman et al.	:	
Application No. 09/947,036	:	ON PETITION
Filed: July 12, 2001	:	
Attorney Docket No. B448-0003-PAT	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed March 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner has now met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 6

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Guy J. Breitenbucher, Hui Cai, James P. Edwards, Cheryl A. Grice, Yin Gu, Darin J. Gustin, Lars Karlsson, Haripada Khatuya, Steven P. Meduna, Barbara A. Pio, Siquan Sun, Kevin L. Tays, Robin L. Thumond, and Jianmei Wei
Application No. 09/947,041
Filed: September 5, 2001
Attorney Docket No. ORT-1494
METHOD FOR TREATING ALLERGIES USING SUBSTITUTED PYRAZOLES

DECISION NOTING JOINDER AND DISMISSING PETITION UNDER 37 C.F.R. §1.47(a) AS MOOT

This is in response to the petition under 37 C.F.R. 1.47(a)[1], filed January 22, 2002.

The petition is DISMISSED AS MOOT.

The above-identified application was filed on September 5, 2001, identifying Guy J. Breitenbucher, Hui Cai, James P. Edwards, Cheryl A. Grice, Yin Gu, Darin J. Gustin, Lars Karlsson, Haripada Khatuya, Steven P. Meduna, Barbara A. Pio, Siquan Sun, Kevin L. Tays, Robin L. Thumond, and Jianmei Wei as joint inventors. Tays failed to execute the declaration. The application as filed included the petition and fee. Accompanying the petition was a declaration establishing that the non-signing inventor was unavailable as he was "traveling in Canada".

The fact that a non-signing inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47(b)[2]. Such a petition is subject to dismissal as inappropriate.

---

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

2 See MPEP 409.03(d).

However, on January 22, 2002, Petitioner filed a supplemental petition, establishing that the missing signature had been obtained. A fully executed declaration was included. The surcharge for late filing of the declaration is required, and has been charged to Deposit Account No. 10-0750, as authorized.

This declaration has been reviewed and found in compliance with 37 CFR §1.63.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered 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).

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
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NEW BRUNSWICK NJ 08933-7003

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APR 13 2005

OFFICE OF PETITIONS

In re Application of
J. Guy Breitenbucher et al
Application No. 09/947,041
Filed: September 5, 2001
Attorney Docket No. ORT-1494

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 20, 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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/230,407, which was filed on September 6, 2000, for which priority is claimed. Additionally, intermediate Application No. 09/928,122 was filed on August 10, 2001, within twelve months of provisional Application No. 60/225,138, filed on August 14, 2000.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) 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) and 1.78(a)(5)(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 and 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) 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 the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1614 for appropriate action on the amendment submitted December 20, 2004, including consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, 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 applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

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JUL 19 2002

OFFICE OF PETITIONS

In re Application of :
Wortmann et al. :
Application No. 09/947,055 : DECISION ON PETITION
Filed: September 4, 2001 :
Attorney Docket No. 103-1381 :

This is a decision on the petition under 37 CFR 1.10, filed June 11, 2002, requesting that the above-identified application be accorded a filing date of September 4, 2001, rather than the presently accorded filing date of September 5, 2001.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in the United States Postal Service (USPS) Express Mail Service on September 4, 2001, pursuant to the requirements of 37 CFR 1.10. The present petition is accompanied by a copy of Express Mail Mailing label No. EL513163519US. The same Express Mail label number was placed on the original application papers located in the official file. However, the copy of the Express Mail Mailing label indicates the "date-in" as September 5, 2001.

In support, the present petition is accompanied by the declaration of Alton D. Smith, Plant Manager at the Atlanta District Airport Mail Center. Mr. Smith certified that Mr. Christopher J. Chan of Kilpatrick Stockton hand-delivered Express Mail Envelope EL513163519US to the USPS at the Atlanta Airport Mail Center in Atlanta, Georgia on September 4, 2001, at approximately 11:25 p.m. Mr. Smith further stated that the "date-in" of September 5, 2001, was incorrect, and should have been stamped in on September 4, 2001.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is September 4, 2001. Therefore, the application may be accorded a filing date of September 4, 2001.

Accordingly, the petition is **granted**. No petition fee is necessary.

The application is being returned to the Office of Initial Patent Examination for **correction of the filing date to September 4, 2001.**

Telephone inquires specific to this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell 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
United States Patent and Trademark Office
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NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA SC 29201

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SEP 25 2008

OFFICE OF PETITIONS

In re Application of .
Keaton, et al.
Application No. 09/947,062
Filed: September 5, 2001
Attorney Docket No. 16792/09000

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**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Nelson Mullins Riley & Scarborough LLP
IP Department
100 North Tryon Street
42nd Floor
Charlotte, NC 28202-4000

Mail Date: 05/14/2010

Applicant	: G. David Keaton	: DECISION ON REQUEST FOR
Patent Number	: 7617146	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/947,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/05/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2029** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6757564	2004-06-29	09947074	2001-09-06	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/MARIO D'ALERTA/	Date (YYYY-MM-DD)	2009-03-06
Name	MARIO D'ALERTA		

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. 6757564
Issue Date: June 29,2004
Application No. 09947074
Filed: September 6,2001
Attorney Docket No. DALE100

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 15,2009 ,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 March 15,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DIW Jan-08

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Johnson et al.	:	DECISION ON PETITION TO
Application Number: 09/947077	:	WITHDRAW HOLDING OF
Filing Date: 09/05/2001	:	ABANDONMENT
Attorney Docket Number:	:	
45123/WGM/A23	:	

This is a decision on reference to the "REQUEST TO WITHDRAW ABANDONMENT, OR IN THE ALTERNATIVE, PETITION TO REVIE APPLICATION UNINTENTIONALLY ABANDONED," filed on December 17, 2007, which is treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED** to the extent indicated.

The application was held abandoned on June 23, 2007, for failure to timely file an Appeal Brief in response to the Notice of Appeal filed on January 22, 2007, which set a two (2) month shortened period for reply. On August 20, 2007, a request for a three (3) month extension of time and the fee therefor was filed. Notice of Abandonment was mailed on October 9, 2007.

Petitioner asserts that on August 20, 2007, a five (5) month extension was intended to be filed, and that although the paper filed on August 20, 2007, indicated a three (3) month extension of time was requested, the paper contained authorization to charge any required fees to counsel's deposit account. Petitioner further avers that a continuing application was filed on August 20, 2007. In essence, petitioner seeks copendency between the subject application and the continuing application, No. 11/894,325, filed on August 20, 2007.

Upon review, petitioner's argument is well taken in that the request for extension of time contained authorization to charge any additional extensions of time to counsel's deposit account.

As such, counsel's deposit account will be assessed the balance due for a five (5) month extension of time.

As the requested relief has been granted, no petition to revive is necessary. The petition fee will be credited to counsel's deposit account.

Accordingly, Office records will be corrected to indicate that the subject application became abandoned on August 23, 2007, in favor of co-pending Application No. 11/894,325, filed on August, 20, 2007.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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NASA GODDARD SPACE
FLIGHT CENTER
OFFICE OF PATENT COUNSEL
MAIL CODE 503
GREENBELT, MD 20771

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of	:	
John Kolasinski	:	LETTER REGARDING
Application No. 09/947,092	:	PATENT TERM ADJUSTMENT
Filed: August 31, 2001	:	
Atty Docket No. GSC-13874-1	:	
	:	

This letter is in response to the "COMMENT ON DETERMINATION OF PATENT TERM ADJUSTMENT," filed March 1, 2005, notifying the Office of an error in applicant's favor in the initial determination of patent term adjustment. Applicant states that the patent term adjustment should be "157" days (not "249" days), provided the patent issues in a timely manner without any delay on the part of the Office.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is ONE HUNDRED FIFTY-SEVEN (157) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 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 to date is 249 days. Applicant discloses that the patent term adjustment calculated by the Office does not take into account Applicant's delay in responding to the Office action mailed April 19, 2004.

It is noted that the application is subject to a terminal disclaimer.

A review of the application history confirms that an additional reduction of 92 days should have been entered for applicant delay, pursuant to 37 CFR 1.704(b). In response to the final rejection mailed April 19, 2004, the Office did not receive a request for continued examination (RCE) until October 19, 2004, three months and 92 days later. Pursuant to § 1.704(b), a period of reduction of 92 days should have been entered.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is ONE HUNDRED FIFTY-SEVEN (157) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Patent Publication for issuance of the application.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAHLGREN DIVISION NAVAL SURFACE WARFARE CENTER
6703 W HWY 98 CODE CP2L
PANAMA CITY, FL 32407-7001

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JUN 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Darryl Updegrove :
Application No. 09/947,093 : ON PETITION
Filed: September 5, 2001 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 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 payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 6

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

MAIL

NOV 25 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/947,111

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Steve Volk
Chairman of the Board
DataPlay, Inc.
2560 55th Street
Boulder, CO 80301-5706

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 9

STEVE VOLK
CHAIRMAN OF THE BOARD
DATAPLAY, INC.
2560 55TH STREET
BOULDER, CO 80301-5706

MAILED

FEB 13 2003

Technology Center 2600

In re Application Serial No.:

09/947,111

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request filed December 24, 2002 to Withdraw as Attorney is **DISMISSED AS MOOT**.

The petitioner, James E. Parsons, is no longer of record as attorney and agent. Therefore, he cannot request a change of address.

There appears to be two addresses for the applicant. If the address of record (above) is improper, applicant must submit a formal Change of Correspondence Address.

Further communications will continue to be directed to the address of record listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Skjerven Morrill LLP
25 Metro Drive
Suite 700
San Jose, CA 95110

cc: Alan MacPherson
MacPherson Kwok Chen & Heid LLP
2001 Gateway Place, Suite 195
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACPHENSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE, CA 95110

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MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Raymond et al.	:	
Application No. 09/947,111	:	ON PETITION
Filed: September 4, 2001	:	
Attorney Docket No. M-11128 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 30, 2004, 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 July 3, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 4, 2003. A Notice of Abandonment was mailed October 18, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy