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OFFICE OF PETITIONS

WOLF GREENFIELD
& SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of	:	
Herz, et al.	:	DECISION
Application No.: 09/690,046	:	
Filing Date: 16 October, 2000	:	
Attorney Docket No. P0813.70015US01	:	

This is a decision on the petition filed on 8 March, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

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

BACKGROUND

The record reflects that:

- following Examiner's non-final rejection on 18 July, 2003, and Petitioner's timely reply thereto, the Examiner mailed on16 February, 2005, a second non-final rejection and Petitioner replied with a Notice of Appeal pursuant to 37 C.F.R. §41.31(a) filed on 19 August, 2005, with further reply in the form of an Appeal Brief due absent extension of time on or before 19 October, 2005;

- Petitioner failed to reply timely and properly, and the application went abandoned by operation of law after midnight 19 October, 2005;

- the Office mailed a Notice of Abandonment on 22 January, 2007;

- on 8 March, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that on 21 February, 2006, he filed a timely and proper reply in the form of an amendment over an 18 February, 2006, certificate of mailing, and a request and fee for extension of time to make the reply timely and the record in fact reflects such a filing, however, it appears that the Examiner interpreted the amendment as one after-final an not of right, rather than an amendment filed in reply to a non-final rejection–and Petitioner notes this as what he suggests is a mis-interpretation/appreciation of events and the reason for the erroneous determination of abandonment.

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 those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[2] 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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

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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]

[3] 35 U.S.C. §133 provides:

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

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

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

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

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.[9]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express

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

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

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

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

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

Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the

> Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing as discussed above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 22 January, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2100 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

SPE: A. Zarabian

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/7/07 Paper No.: _____

TO SPE OF : ART UNIT 2827

SUBJECT : Reques: for Certificate of Correction for Appl. No.: 09/960,087 Patent No.: 6847105

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: All of the changes / corrections do not introduce any new matter issues or change the scope / meaning of the claims

[signature] 2814
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

Rochelle Lieberman
Lieberman & Brandsdorfer, LLC
12221 McDonald Chapel Drive
Gaithersburg, MD 20878

MAILED

SEP 1 0 2004

Technology Center 2100

In re Application of: Pearson
Application No.: 09/960,118
Filed: September 21, 2001
Attorney Docket No.: BEA9-2001-0027-US1
For: REPLACEMENT SELECTION WITH DUPLICATE KEY HANDLING

DECISION GRANTING PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8

This decision is in response to the petition to withdraw abandonment filed September 2, 2004. The communication is being treated as a petition to withdraw the holding of abandonment and to accept papers as timely filed under 37 CFR §1.8. The Notice of Abandonment was mailed August 11, 2004.

In support of the petition, petitioners have provided a statement along with a copy of the amendment filed January 2, 2004 and a copy of the USPTO Auto-Reply.

The USPTO Auto-Reply serves as *prima facie* evidence of receipt in the USPTO. The evidence provided establishes that a timely response was, in fact, received on January 2, 2004. The Office failed to match the response to the application file.

The petition is **GRANTED**. The application was not abandoned in fact. The Office regrets any inconvenience caused by this error.

The application will be forwarded to the Technical Support Staff for processing of the response to the Office action of October 2, 2003. Thereafter, the application will be forwarded to the examiner for consideration of applicant's amendment.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Robert Curfiss
P.O. Box 3171
Houston. TX 77253-3171

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AUG 2 8 2006

OFFICE OF PETITIONS

In re Application of :
David A. Monroe :
Application No. 09/960,126 :
Filed: September 21, 2001 :
Attorney Docket No. :
121817.001.051 :

This is a decision in response to the Petition Under 37 CFR 1.137(b), filed October 24, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed as untimely**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-compliant Amendment (hereinafter "Notice"), mailed July 29, 2005, which set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant files the instant reply within two (2) months after the reply was due; however, extensions of time under 37 CFR 1.136(a) were available up to five (5) months as set forth in the Notice.

In order to make the reply timely, a two (2) month extension of time and fee are required. Applicant has filed the petition fee, $1500.00, with the petition. Accordingly, the fee for a two (2) month extension of time, $450.00, will be charged from the $1500.00 submitted, and the balance refunded to Applicant via treasury check, as no authorization to refund fees to a deposit account has been located among the application papers.

This application is being referred to Technology Center Art Unit 2142 for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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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Attn: Kirt S. O'Neill
AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
P.O. Box 12870
SAN ANTONIO, TX 78212

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OFFICE OF PETITIONS

In re Application of	:	
David A. Monroe	:	
Application No.: 09/960126	:	DECISION ON
Filing or 371(c) Date: 09/21/2001	:	PETITION
Title of Invention: METHOD AND	:	
APPARATUS FOR	:	
INTERCONNECTIVITY BETWEEN	:	
LEGACY SECURITY SYSTEMS AND	:	
NETWORKED MULTIMEDIA SECURITY	:	
SURVEILLANCE SYSTEM	:	

This is a decision in response to the Petition Under 37 C.F.R. § 1.181 to Withdraw the Holding of Abandonment, filed October 18, 2006.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Appeal Brief ("Notice"), mailed July 29, 2005. The Notice set a one (1) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a petition to revive the application on October 24, 2005, along with an amendment in response to the Notice. The petition was dismissed as untimely in a Decision mailed August 28, 2006. The Decision noted that the maximum extendable period for reply had not expired. The petition fee was refunded to Applicant, and Applicant was charged the fee for a two (2) month extension of time. The application was referred to the Technology Center for continued processing. A Notice of Abandonment was subsequently mailed October 4, 2006.

Applicant files the instant petition and asserts that the application was abandoned improperly in view of the amendment filed October 24, 2006.

The Examiner has review the amendment filed October 24, 2006 and found the amendment compliant. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2142 for processing of the Amendment filed October 24, 2006 in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE, IL 60532

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JAN 0 2 2004

OFFICE OF PETITIONS

In re Application of
LePottier et al.
Application No. 09/960,171
Filed: September 21, 2001
Attorney Docket No. A0-339 US

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 18, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 22, 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 23, 2001. A Notice of Abandonment was mailed on November 6, 2003.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/27/09

Paper No.: —

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/960197 Patent No.: 7221488B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: All changes on the Certificate of Correction filed on 4/14/09 are approved.

Primary Examiner
AU 2625

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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HOWARD M. COHN
C/O RONALD P. YAIST, DEPT. 823
THE GOODYEAR TIRE & RUBBER COMPANY
1144 EAST MARKET STREET
AKRON, OH 44316-0001

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AUG 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Currie et al. :
Application No. 09/960,215 : ON PETITION
Filed: September 21, 2001 :
Attorney Docket No. DN2001168USA :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 20, 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 February 4, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 5, 2004. A Notice of Abandonment was mailed on June 29, 2004.

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

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

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. Any telephone inquiries after approximately **September 24, 2004** 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

cc: HOWARD M. COHN
21625 CHAGRIN BLVD. SUITE 220
CLEVELAND, OH 44122

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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GARY L. EASTMAN
EASTMAN & ASSOCIATES
707 BROADWAY STREET, SUITE 1800
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of :
Todd Barrett :
Application No. 09/960,223 : ON PETITION
Filed: September 20, 2001 :
Attorney Docket No. 1092-PA428 :

This is a decision in response to a petition, filed September 20, 2004, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is DISMISSED.

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

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(l); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition lacks item (3).

The petition appears to be filed by the assignee; however, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a

chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office

A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed. For petitioner's convenience, a Statement under 37 CFR 3.73(b) is enclosed.

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

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

By hand:
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306**.

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

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

Enclosure: Statement under 37 CFR 3.73(b)

cc: JOHN R. ROSS
TREX ENTERPRISES CORP.
10455 PACIFIC CENTER CT
SAN DIEGO, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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GARY L. EASTMAN
EASTMAN & ASSOCIATES
707 BROADWAY STREET, SUITE 1800
SAN DIEGO, CA 92101

COPY MAILED

FEB 14 2005

OFFICE OF PETITIONS

In re Application of :
Todd Barrett :
Application No. 09/960,223 : ON PETITION
Filed: September 20, 2001 :
Attorney Docket No. 1092-PA428 :

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

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed December 8, 2003. A Notice of Abandonment was mailed on July 2, 2004.

The present petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, 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 2874 for consideration of the amendment filed September 20, 2004.

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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WASHINGTON, D.C. 20231
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Paper No. 4

Patterson Thuente Skaar & Christensen
4800 IDS Center, 80 South 8th Street
Minneapolis, MN 55402-2100

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DEC 10 2001

OFFICE OF PETITIONS

In re Application of :
Paul Chapin :
Application No. 09/960,231 : DECISION GRANTING
Filed: September 20, 2001 : PETITION
For: System and Method for Stroyboard :
Interactive Television Advertisement

This is a decision on the petition under 37 CFR 1.181, filed October 9, 2001, requesting that the above-identified application be accorded a filing date of September 20, 2001, rather than the presently accorded filing date of September 21, 2001. The request is properly being treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the filing date of the above-identified application should be September 20, 2001. In support of the petition, petitioner has provided a copy of an "Express Mail" mailing label bearing "Express Mail" label no. EL671573105US. The same Express mail receipt number was referred to in the original Application Transmittal Letter filed with the application papers. Petitioner requests that the application be accorded a filing date of September 20, 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 20, 2001.

The petition is granted.

The $130 petition fee will be credited to petitioner's deposit account.

The application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of September 20, 2001 and 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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WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

COPY MAILED

JAN 25 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Wang et al. :
Application No. 09/960,232 :
Filed: September 20, 2001 :
Attorney Docket No. M61.12-0389 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 13, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to Technology Center 2100 for processing of the Request for Continued Examination filed October 10, 2006, now that the submission required under 37 CFR 1.114 has been received.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 14 2009

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United States Patent and Trademark Office
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Doyle A. Siever
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934

In re Application of:	:
Ho et al.	:
Serial No.: 09/960,244	: PETITION DECISION
Filed: September 21, 2001	:
Attorney Docket No.:	:
2560.0020000/JAG/D-S	:

This is in response to the petition under 37 CFR § 1.181(a)(1), filed June 16, 2009, requesting that the examiner's requirement to cancel allegedly new matter set forth in the Office action of March 16, 2009 be reviewed and rescinded.

BACKGROUND

The petition concerns the issue of whether or not the amendment of March 5, 2008 resulted in the addition of new matter to the specification.

On March 5, 2008, Applicants submitted an amendment containing, *inter alia*, amendments to the specification removing a sentence from the end of Example 1 and adding it to the middle of Example 3.

On March 27, 2008, an interview was conducted between the examiner's supervisor and two of Applicants' representatives. On April 3, 2008, a second interview was conducted between the examiner, the examiner's supervisor, and the same two representatives. The record does not indicate that the amendments to the specification submitted March 5, 2008 were discussed.

On July 7, 2008, Applicants submitted a supplemental amendment comprising amendments to the claims and remarks, but no further amendments to the specification.

On March 16, 2009, the examiner mailed to Applicants a non-final Office action containing, *inter alia*, an objection to the amendment filed July 7, 2008 for introducing new matter into the specification. Since the examiner specifically referred to the sentence moved from Example 1 to Example 3, it is assumed that the reference to the amendment of July 7, 2008 was an inadvertent error and that the examiner intended to refer to the amendment of March 5, 2008. Such is also assumed by Applicants, as evidenced by footnote 2 appearing at p. 2 of the petition.

On June 16, 2009, Applicants submitted the instant petition.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition, Applicants argue that the amendments to the specification were made to correct minor clerical errors, and that the amendments were not material to patentability. Applicants argue that the amendment at issue is supported by the original disclosure, does not change the description of the invention, and does not introduce new matter, especially considering the sentence being moved from Example 1 to Example 3 was the exact same sentence. Applicants urge that moving the sentence to Example 3 was in order to place this sentence, which refers to cells of Figure 1B, immediately after a sentence referring to Master Cell Bank in order to provide additional clarity that the cells shown in Figure 1B may be referred to by the arbitrary designation of Master Cell Bank cells. Applicants further argue that the claims do not refer to, nor require, any reference to a Master Cell Bank. Applicants argue that Examples 1 and 3 are not distinct, but that Example 3 continues the procedure outlined in Example 1. Finally, Applicants argue that the examiner did not object to an almost identical request to move a sentence from Example 2 to Example 3.

Example 1 of the specification as originally filed describes a procedure of isolating cells from bone marrow aspirates following red blood cell lysis. The end of Example 1 in the specification as originally filed describes the adherent population of cells obtained from the method with these sentences:

> CD45, CD49c and CD90 in the cultured bone marrow cells was assessed. The adherent population derived from mononuclear cells initially purified using ammonium chloride lysis contained approximately 70% CD49c positive cells at a similar stage of culture (Figure 1A). The majority of cells that did not express CD49c were positive for expression of hematopoetic/myeloid lineage marker CD45 (Figure 1A, LR quadrant), demonstrating that the CD49c positive cell population derived from human bone marrow isolated was not directly related to known hematopoietic precursors. More than 94% of the adherent population was CD90 and CD49c positive (Figure 1B).

Therefore, the specification as originally filed indicated that the procedure set forth in Example 1 resulted in a cell population in which over 94% of the adherent cells were CD90 and CD94c positive. Example 3 is a continuation of the procedure of Example 1, and describes additional steps taken on the cells obtained in Example 1. These include culturing 7-10 days, removal of cells from flasks, washing, cooling/storing, replating and culturing for two weeks, removal of cells from plates, and cryopreservation. Page 28, lines 19-21 indicate that these cells were the "Master Cell Bank." The amendment to Example 3 indicates that more than 94% of the cells in the Master Cell Bank were CD90 and CD94c positive. Therefore, the amendment moving the

sentence at issue from Example 1 to Example 3 introduces new matter into the specification, since the amended specification discloses that additional steps set forth in Example 3 must be carried out on the cells obtained by the procedure of Example 1 in order to obtain a cell population wherein more than 94% of the cells in the Master Cell Bank were CD90 and CD94c positive.

There is no evidence of record that the sentence at issue should have appeared in Example 3 originally, and that its appearance in Example 1 in the specification as originally filed was a clerical error. It is noted that *Ex parte Marsili*, 214 USPQ 904 (BPAI 1979), and *Ex parte Maizel*, 27 USPQ2d 1662 (BPAI 1992), both indicate the desirability of correcting errors. However, in both cases, evidence was submitted showing that the inventors were in possession of the compounds at issue at the time of filing, as well as when the errors in the chemical structures were identified, and what steps were taken to correct the errors. No such evidence has been submitted in the instant application.

Regarding the move of a phrase from Example 2 to Example 3, the fact pattern is clearly distinguished from that of the move of a sentence from Example 1 to Example 3. Specifically, the amendment to Example 3 is as follows:

> **Similarly, the master cell bank generated from the CFU derived using the method of Example 2 showed that more than 91% of the adherent population was CD90 and CD49c positive (Figure 2B) and the majority of cells (>98.8%) of the resulting cell population expressed ~~CD90~~ CD49c (Figure 2C) and virtually lacked any expression of the myeloid-related marker CD45 (Figure 2C, LR quadrant). Thus, the expansion procedure as described herein generates a substantially homogenous population of adherent cells which co-express CD49c and CD90 and lack significant expression of the marker CD45.**

Thus, the phrase appears in Example 3 only at a place that references the cells of Example 2. Such does not constitute new matter.

DECISION

The petition is subsequently **DENIED**.

A notice of appeal has been filed 16 June 2009. To avoid abandonment, Applicants must file a response in accordance with the time period set forth in 37 C.F.R. § 41.37(a).

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

Remy Yucel
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/27/09

TO SPE OF : ART UNIT **1638 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/960,322** Patent No.: **6,828,480**

Attn: Phuong Bui

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE _____ Art Unit _____

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE ok to enter ptb 3/27/09	Patent Number	6,828,480
	Issue Date	December 7, 2004
	First Named Inventor	MCCALL, LLOYD I
	Group Art Unit	1638
	Examiner Name	BUI, PHUONG T.
	Attorney Docket Number	1379-005
Title of the Invention: SOYBEAN CULTIVAR SG5010NRR		

REQUEST FOR EXPEDITED ISSUANCE OF CERTIFICATE OF CORRECTION

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

Sir:

Patentee requests Expedited Issuance of Certificate of Correction to correct the following errors:

Column 20, line 12, replace "25" with --11--.

Column 20, line 17, replace "27" with --13--.

Column 20, line 22, replace "29" with --15--.

Column 20, line 29, replace "31" with --17--.

Column 20, line 58, replace "33" with --19--.

All the above errors are the fault of the Patent and Trademark Office, in the above identified patent. Along with this request, Patentee submits a copy of the Amendment After Notice of Allowance under 37 C.F.R. §1.312 filed with the Patent and Trademark Office on April 14th, 2004.

RESPECTFULLY SUBMITTED,					
NAME AND REG. NUMBER	ELIZABETH BENNETT-JARVIS, Reg. No. 53,982				
SIGNATURE	Elizabeth L. Bennett-Jarvis		DATE	Feb. 28, 2008	
Address	Jondle & Associates P.C. 858 Happy Canyon Road, Suite 230				
City	Castle Rock	*State*	CO	*Zip Code*	80108
Country	U.S.A.	*Telephone*	303-799-6444	*Fax*	303-799-6898

APR 13 2004 JC25
PATENT & TRADEMARK OFFICE

PTO/SB/83 (05-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	09/960,325
Filing Date	September 24, 2001
First Named Inventor	Mari UENISHI
Art Unit	1754
Examiner Name	William G. WRIGHT
Attorney Docket Number	KOS0012-US

AUG 30 2004

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700

I hereby apply to withdraw as attorney or agent for the above identified application.

The reasons for this request are: express request of client; client has received copies of all correspondences

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number [ ] → *Place Customer Number Bar Code Label here*

OR

☒ Firm *or* Individual Name	DICKINSON WRIGHT PLLC; attn: Jean C. Edwards, Esq.				
Address	1901 L Street, NW				
Address	Suite 800				
City	Washington	**State**	D.C.	**ZIP**	20036-3506
Country	U.S.A.				
Telephone		**Fax**			

☒ This request is made on behalf of myself and
- ☐ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ the attorneys/agents associated with Customer Number 27510

This request is enclosed in triplicate (including any attachments).

Name	John W. Ball, Jr., reg. no. 44,433
Signature	
Date	4/13/04

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

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,396	09/24/2001	Stephen McCann	3036/50289	5628

7590 11/04/2008

Crowell & Moring L.L.P.
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

EXAMINER	
WILLIAMS, JEFFERY L	

ART UNIT	PAPER NUMBER
2437	

MAIL DATE	DELIVERY MODE
11/04/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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NOV 03 2008

TECHNOLOGY CENTER 2100

Stephen Palan
Crowell & Moring LLP
Intellectual Property Group
P. O. Box 14300
Washington DC 14300

In re Application of: McCann	)	
Application No. 09/960,396	)	**DECISION ON PETITION TO**
Attorney Docket No. 038819.50289	)	**WITHDRAW RESTRICTION**
Filed: September 24, 2001	)	**REQUIREMENT UNDER 37 CFR**
For: Access Authentication System	)	**§1.144**

This is a decision on the petition filed October 30, 2007 under 37 C.F.R. §1.144 and 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **Granted**.

RELEVANT PROSECUTION HISTORY

October 3, 2006	A restriction requirement of subcombinations useable together grouping claims 1-15 and 21 in one group and in the second group claims 16-20 with an election by original presentation of claims 1-15 and 21 was mailed out.
February 1, 2007	An amendment of the claims and an argument with respect to the restriction was filed by petitioner.
May 2, 2007	A second restriction requirement was mailed out with claims 1-9 and 21 in group 1 and claims 11-15 and claim 22 in group 2. Again subcombinations useable together was the reason and the arguments were not persuasive.
August 10, 2007	The restriction requirement was made final.
October 30, 2007	The petition was filed asking for the restriction to be withdrawn as it is improper and group 1 of claims 1-9 be examined along with claims of group 2 claims 11-15.

November 9, 2007 An amendment was filed changing the scope of claim 11 and cancelling claims 16-20.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.143 states:

> If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 states:

> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144.

37 C.F.R. § 1.181 states:

> (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 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 or reviewed 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.

MPEP § 803 states:

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).
If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS
There are two criteria for a proper requirement for restriction between patentably distinct inventions:
(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and
(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 821.01 states:

Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be

repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner. 37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, applicant filed several requests for reconsideration prior to the petition.

The issue presented in the petition is whether the restriction based on original presentation under 37 C.F.R. § 1.145 is proper under the current regulations and practice.

MPEP § 803 sets forth two criteria for a proper restriction requirement between patentably distinct inventions: (A) the inventions must be independent or distinct as claimed and (B) there must be a serious burden on the examiner.

A review of claim 1 indicates that it recites an access authentication system comprising an intended use statement and a wherein clause only and no elements. As there is no burden examining an access authentication system with method claim 1, the restriction is improper.

For the above reasons, the petition is **GRANTED**.

The restriction requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claims 1-9, 11-15 and 21-48.

/Tod Swann/
Tod Swann
Special Programs Examiner
Technology Center 21400

DECISION ON PETITION ROUTING SLIP

Application No.: 09960396

Art Unit: 2137

For Director's Secretary:

☑ **Granted** ☐ **Denied** ☐ **Dismissed**

- ☐ Decision to be reviewed and signed by Director
- ☑ Mail Decision & ~~enter decision in Petition Database~~
- ☑ Forward a copy of the mailed decision to IFW for scanning
- ☑ Enter Paper Nos [ ] and the decision in PALM
- ☐ Other [ ]

For TECH Support Staff:

- ☐ Process and enter Paper Nos. [ ]
- ☐ Charge [ ] fee to D.A. No [ ]
- ☐ Other [ ]
- ☐ Forward file to [ ]

Quality Assurance Specialist No. 1:	Quality Assurance Specialist No. 2:	Quality Assurance Specialist No. 3:	Quality Assurance Specialist No. 4:
Vincent Trans WQAS 2160 RND-4B07 (571) 272-3613	Brian Johnson, WQAS 2110, RND 4A01 (571) 272- 3595	Pat Salce, WQAS 2170, RND- 4B09, (571) 272-3610	Tod Swann

Quality Assurance Specialist No. 5:	Quality Assurance Specialist No. 6:	Quality Assurance Specialist No. 7:	Quality Assurance Specialist No. 8:
Gail Hayes	Kakali Chaki WQAS 2120, RND 5A05 (571)272- 3719	John Follansbee	Mano Padmanabhan WQAS 2180, RND 2A79 (571) 272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

Office of Patent Counsel
Schlumberger Oilfield Services
P.O. Box 2175
Houston TX 77252-2175

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JUL 0 1 2002

OFFICE OF PETITIONS

In re Application of
Gzara, et al.
Application No. 09/960,445
Filed: September 21, 2001
Attorney Docket No. 19.0302

: DECISION GRANTING
: PETITION

This is a decision on the petition filed February 26, 2002 (certificate of mailing date February 13, 2002), requesting that the above-identified application be accorded a filing date of September 21, 2001 rather than the presently accorded filing date of September 12, 2001.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on September 21, 2001, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EL889000071US showing a "date-in" of September 12, 2001 **and** a USPS date stamped postmark of September 21, 2001. The same Express Mail label number is found on the original application papers.

The evidence presented and an independent review of the USPTO USPS Express Mail Finder Database establish that the Express Mail package associated with Express Mail label no. EL889000071US was deposited with the USPS on September 21, 2001.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

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

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **September 21, 2001** and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

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

cc: SCHLUMBERGER TECHNOLOGY CORPORATION
SUGAR LAND PRODUCT CENTER
INTELLECTUAL PROPERTY LAW AND CONTRACTS
P.O. BOX 2175
HOUSTON, TX 77252-2175

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)
6523192	2003-02-25	09960446	2001-09-21	13226-403

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	/C. John Brannon/	Date (YYYY-MM-DD)	2007-04-25
Name	C. John Brannon	Registration Number	44557

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. 6523192
Issue Date: February 25,2003
Application No. 09960446
Filed: September 21,2001
Attorney Docket No. 41006-11

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

This is a decision on the electronic petition, filed April 25,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 25,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDMUND P. PFLEGER
GROSSMAN TUCKER PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERCIAL STREET
MANCHESTER, NH 03101

COPY MAILED

AUG 16 2004

OFFICE OF PETITIONS

In re Application of :
William L. Densham et al :
Application No. 09/960,453 : NOTICE
Filed: September 21, 2001 :
Attorney Docket No. O2Micro 00.07

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 2838 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of
Seang H. Yiv et al.
Application No. 09/960,464
Filed: September 19, 2001
Attorney Docket No. 12152.49USW1

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

This is in response to the reconsideration petition filed under 37 CFR 1.47(a) on July 23, 2002.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Seang H. Yiv, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declarations of Keith Campbell and Karen Olsen establishes that the inventor was personally presented with a copy of the application papers but refuses to sign the declaration naming him as a joint inventor along with Mingshu Li and Fatih M. Uckin as joint inventors.

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

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

The application is being forwarded to the Office of Initial Patent Examination to be processed in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WERNER H. SCHROEDER
5550 HERON POINT DR. # 1105
NAPLES FL 34108

MAILED

OCT 16 2009

OFFICE OF PETITIONS

Patent No. 6,651,685 :
Application No. 09/960,483 :
Filed: September 24, 2001 : ON PETITION
Issued: November 25, 2003 :
Title: CHILDRENS PLAY AREA :
SUNSHADE CANOPY

This is a decision on the petition under 37 CFR 1.378(c), filed August 15, 2008, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks none of the above-listed items above.

However, since the instant petition is signed on the behalf of the assignee, it does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that:

> (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

A 37 CFR 3.73(b) statement is enclosed.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(h). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fees and post expiration surcharge are refundable. Petitioner may request a refund of the fees submitted on August 15, 2008. Please send all requests for refunds to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/96 – Statement under 37 CFR 3.73(b)

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. 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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

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

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

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

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

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

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

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

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

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

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

_____ _____
Signature Date

_____ _____
Printed or Typed Name Title

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

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

COPY MAILED

JUL 22 2002

OFFICE OF PETITIONS

In re Application of :
Hooman Darabi et al : DECISION GRANTING
Application No. 09/960,536 : PETITION
Filed: September 21, 2001 :
Attorney Docket No. 42286/RRT/B600 :

This is a decision on the petition filed June 7, 2002, to accord the above-identified application a filing date of September 21, 2001, instead of September 24, 2001.

The petition is **granted**.

37 CFR 1.10(d) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (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 showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of September 21, 2001.

A corrected filing receipt showing the filing date of September 21, 2001 accompanies this decision.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of September 21, 2001. Afterwards, the application file will be forwarded to Technology Center Art Unit 2631 for examination in due course.

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

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVEN I. WEISBURD
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS
41st FLOOR
NEW YORK, NY 10036-2714

COPY MAILED

SEP 05 2008

OFFICE OF PETITIONS

In re Application of :
Igakura :
Application No. 09/960,548 : DECISION
Filed: 20 September, 2001 :
Attorney Docket No. P/1866-65 :

This is a decision on the petitions, filed13 June, 2008, and considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 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 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

Alternatively, Petitioner may file a "Petition to Revive an Application under 37 C.F.R. §1.137(b) as Having Been Abandoned Due to Unintentional Delay."

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 C.F.R. §1.137(b).

A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee (unless previously paid), and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific

fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner's attention always is drawn to the guidance in the Commentary at MPEP §711.03(c).[1]

---

[1] The Commentary at MPEP §711.03(c) provides in pertinent part:

*****

I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 C.F.R. 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 C.F.R. 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 C.F.R. 1.137(a) based on unavoidable delay; and (2) a petition under 37 C.F.R. 1.137(b) based on unintentional delay.

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

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

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

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

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted

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See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP § 512. As stated in 37 C.F.R. 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. 1.8).

37 C.F.R. 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 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 C.F.R. 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 C.F.R. 1.181(f). Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

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as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office. And under the rule (37 C.F.R. §1.181) Petitioner must seek relief within two months of the act complained of.

Petitioner has failed to support the averments of search and non-discovery with the documentary presentations of the docket page/file jacket cover and with the with the reply due-date docket for the date on which the papers would have been filed—i.e., Monday, 22 January, 2007, and with a copy of the docket sheet/file jacket cover for the instant application. Petitioner also failed to satisfy the timeliness requirement under the rule.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly Notice of Noncompliant Appeal Brief mailed on 21 December, 2006, with reply due absent extension of time on or before Monday, 22 January, 2007.

The application went abandoned by operation of law after midnight 22 January, 2007.

The Office mailed the Notice of Abandonment on 31 July, 2007.

On 13 June, 2008, Petitioner filed the instant petition, asserting, inter alia, that the Notice of Noncompliant Appeal Brief was not received, a search of the file and non-discovery, and provides statements by Petitioner and Ms. Henrietta Marron, who is averred to docket materials received in the mail from the Office, and a due-date docket calendar for 21 January, 2007, however, in view of the fact that the due date was a non-business day (a Sunday) and the next day was the last date for reply—and thus the reply due-date—there is no showing as to the calendar for that date and it does not appear that Petitioner included a copy of the docket sheet/file jacket cover for the instant application. Moreover, the Office mailed the Notice of Abandonment on 31 July, 2007, and under the rule (37 C.F.R. §1.181), Petitioner had two (2) months to seek relief from the act complained of, which timeliness requirement Petitioner failed to satisfy with the instant petition filed nearly eleven (11) months after the Notice of Abandonment.

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.[2]

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.

STATUTES, REGULATIONS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

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.[5] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

The petition fails to satisfy the above-stated requirements in that Petitioner failed make the showing required and failed to seek relief timely.

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[2] 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).

[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] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternative "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **dismissed**.

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

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

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

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

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[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

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In re Application of :
Igakura :
Application No. 09/960,548 : DECISION
Filed: 20 September, 2001 :
Attorney Docket No. P/1866-65 :

This is a decision on the petitions, filed on 22 September, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly Notice of Noncompliant Appeal Brief mailed on 21 December, 2006, with reply due absent extension of time on or before Monday, 22 January, 2007.

The application went abandoned by operation of law after midnight 22 January, 2007.

The Office mailed the Notice of Abandonment on 31 July, 2007.

On 13 June, 2008, Petitioner filed the original petition for relief under the provisions of 37 C.F.R. §1.181, asserting, *inter alia*, that the Notice of Noncompliant Appeal Brief was not received, a search of the file and non-discovery, and provides statements by Petitioner and Ms. Henrietta Marron, who is averred to docket materials received in the mail from the Office, and a due-date docket calendar for 21 January, 2007, however, in view of the fact that the due date was a non-business day (a Sunday) and the next day was the last date for reply—and thus the reply due-date—there is no showing as to the calendar for that date and it does not appear that Petitioner included a copy of the docket sheet/file jacket cover for the instant application. Moreover, the Office mailed the Notice of Abandonment on 31 July, 2007, and under the rule (37 C.F.R. §1.181), Petitioner had two (2) months to seek relief from the act complained of, which timeliness requirement Petitioner failed to satisfy with the petition filed nearly eleven (11) months after the Notice of Abandonment—and the petition was dismissed on 5 September, 2008.

On 22 September, 2008, Petitioner filed the instant petition with fee under 37 C.F.R. §1.137(b), pointed to the reply previously submitted in the form of a corrected Appeal Brief, and made the 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.[1] In the event that such an inquiry has not been made, Petitioner **must** make such an inquiry.

If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, Petitioner **must** notify the Office.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[1] See 37 C.F.R. §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).

[2] 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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

The instant application is released to Technology Center/AU (TC/AU) 2161 to await the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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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).

[3] 35 U.S.C. §133 provides:

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK NY 10019

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In re Application of :
Igakura :
Application No. 09/960,548 : DECISION
Filed: 20 September, 2001 :
Attorney Docket No. P/1866-65 :

This is a decision on the petitions, filed on 22 December, 2009, and considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 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 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

The history of this matter is long-troubled and marked by Petitioners now-repeated failure to comply with, *inter alia*, the guidance in the Commentary at MPEP §711.03(c)

Previously:

Petitioner failed to reply timely and properly Notice of Noncompliant Appeal Brief mailed on 21 December, 2006, with reply due absent extension of time on or before Monday, 22 January, 2007. The application went abandoned by operation of law after midnight 22 January, 2007. The Office mailed the Notice of Abandonment on 31 July, 2007. On 13 June, 2008, Petitioner filed a petition, asserting, *inter alia*, that the Notice of Noncompliant Appeal Brief was not received, a search of the file and non-discovery, and provides statements by Petitioner and Ms. Henrietta Marron, who is averred to docket materials received in the mail from the Office, and a due-date docket calendar for 21 January, 2007. However, in view of the fact that the due date was a non-business day (a Sunday) and the next day was the last date for reply—and thus the reply due-date—there was no showing as to the calendar for that date and it does not appear that Petitioner included a copy of the docket sheet/file jacket cover for the instant application. Moreover, the Office mailed the Notice of Abandonment on 31 July, 2007, and under the rule (37 C.F.R. §1.181), Petitioner had two (2) months to seek relief from the act complained of, which timeliness requirement Petitioner failed to satisfy with the instant petition filed nearly eleven (11) months after the Notice of Abandonment. The petition was dismissed on 5 September, 2008. On 22 September, 2008, Petitioner filed a petition pursuant to 37 C.F.R. §1.137(b), which was granted on 28 November, 2008.

Thereafter:

On 6 March, 2009, the Office re-mailed the Notice of Non-Compliant Amendment. Petitioner filed an Amended Brief on 6 April, 2009.

On 8 April, 2009, the Examiner mailed an Interview Summary noting therein that "applicant will clarify the mapping of the limitations in an amended appeal brief." (Emphasis supplied.)

On 8 May, 2009, Petitioner submitted a post-summary "Statement of Substance ...," however, Petitioner clearly failed to reply timely and properly to the Interview Summary, as set forth above, in the form of an Amended Appeal Brief to "clarify the mapping of the limitations."

Petitioner's apparent determination to do things his way and not to comply with the requirements as expressly set out in writing by the Examiner on 8 April, 2009, did not constitute a timely and proper reply, and Petitioner's attempt to "spin" the facts did not and will not substitute for compliance.

Petitioner can either comply with the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), or he can filed a petition (with fee) to revive pursuant to to 37 C.F.R. §1.137(b)—and his failure to take that action promptly may be considered as *indicia* of delay that is not unintentional.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

> * * *
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the

private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

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 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.[2]

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.

STATUTES, REGULATIONS

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

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

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[1] *See*: MPEP §711.03(c) (I)(B).

[2] 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).

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK NY 10019

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Igakura	:	
Application No. 09/960,548	:	DECISION
Filed: 20 September, 2001	:	
Attorney Docket No. P/1866-65	:	

This is a decision on the petition, filed on 22 March, 2010, and considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

The history of this matter is long-troubled and marked by Petitioners now-repeated failure to comply with, *inter alia*, the guidance in the Commentary at MPEP §711.03(c)

Previously:

Petitioner failed to reply timely and properly Notice of Noncompliant Appeal Brief mailed on 21 December, 2006, with reply due absent extension of time on or before Monday, 22 January, 2007. The application went abandoned by operation of law after midnight 22 January, 2007. The Office mailed the Notice of Abandonment on 31 July, 2007. On 13 June, 2008, Petitioner filed a

petition, asserting, *inter alia*, that the Notice of Noncompliant Appeal Brief was not received, a search of the file and non-discovery, and provides statements by Petitioner and Ms. Henrietta Marron, who is averred to docket materials received in the mail from the Office, and a due-date docket calendar for 21 January, 2007. However, in view of the fact that the due date was a non-business day (a Sunday) and the next day was the last date for reply—and thus the reply due-date—there was no showing as to the calendar for that date and it does not appear that Petitioner included a copy of the docket sheet/file jacket cover for the instant application. Moreover, the Office mailed the Notice of Abandonment on 31 July, 2007, and under the rule (37 C.F.R. §1.181), Petitioner had two (2) months to seek relief from the act complained of, which timeliness requirement Petitioner failed to satisfy with the instant petition filed nearly eleven (11) months after the Notice of Abandonment. The petition was dismissed on 5 September, 2008. On 22 September, 2008, Petitioner filed a petition pursuant to 37 C.F.R. §1.137(b), which was granted on 28 November, 2008.

Thereafter:

On 6 March, 2009, the Office re-mailed the Notice of Non-Compliant Amendment, and, the record indicates, Petitioner filed an Amended Brief on 6 April, 2009.

On 8 April, 2009, following a 6 April, 2009, Interview, the Examiner mailed an Interview Summary noting therein that "applicant will clarify the mapping of the limitations in an amended appeal brief."

On 8 May, 2009, Petitioner submitted a post-summary "Statement of Substance ...."

On 23 October, 2009, the Office mailed a Notice of Abandonment.

Thereafter, Petitioner's first petition of 22 December, 2009, was dismissed on 8 March, 2010, for failing to make a sufficient showing pursuant to 37 C.F.R. §1.181 and consistent with the guidance in the Commentary at MPEP §711.03(c)(I).

On 22 March, 2010, Petitioner re-submitted his petition and pointed expressly to the element at page 2 of Petitioner's 8 May, 2009, submission wherein Petitioner stated "*** Applicant refiled the Appeal Brief on April 6, 2009[,]" and so expressly replied to the 8 April, 2009, requirement of the Examiner by pointing out the location of the substantive response, which was filed immediately following the Interview of 6 April, 2009.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit

of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

[1] *See*: MPEP §711.03(c) (I)(B).

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 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.[2]

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.

STATUTES, REGULATIONS

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

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered pursuant to 37 C.F.R. §1.181 is **granted** and the 23 October, 2009, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2161 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is

[2] 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).

noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] 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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Kenyon & Kenyon
One Broadway
New York, NY 10004

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AUG 15 2003

OFFICE OF PETITIONS

In re Application of
Bernd Petzold et al.
Application No. 09/960,563
Filed: September 12, 2001
Attorney Docket No. 10191/2020

: DECISION GRANTING REQUEST

This is a decision on the second request for reconsideration filed December 9, 2002, again requesting that the above-identified application be accorded a filing date of September 12, 2001 under the provisions of 37 CFR 1.6(e).

The request to accord the application a filing date of September 12, 2001 is GRANTED.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to September 12, 2001.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kenyon & Kenyon
One Broadway
New York, NY 10004

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OCT 0 9 2002

OFFICE OF PETITIONS

In re Application of
Bernd Petzold et al.
Application No. 09/960,563
Filed: September 21, 2001
Attorney Docket No. 10191/2020

DECISION DISMISSING REQUEST
FOR RECONSIDERATION

This is a decision on the request for reconsideration filed May 29, 2002, again requesting that the above-identified application be accorded a filing date of September 12, 2001 under the provisions of 37 CFR 1.6(e).

A request that the above-identified application be accorded a filing date of September 12, 2001, was submitted with the application papers on filing. A decision dismissing the request was mailed on March 29, 2002. Thereafter, on May 29, 2002, the present request for reconsideration was filed.

37 CFR 1.6(e) states that:

> If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:
> (1) Promptly filed after the ending of the designated interruption or emergency; and
> (2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

35 U.S.C. 21(a) states that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

In the previous decision, it was acknowledged that the U.S. Patent and Trademark Office (Office) designated the interruption in the service of the USPS in the borough of Manhattan as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a), with the provisions of 37 CFR 1.6(e) in effect, and also designated the interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). See "United States Postal Service Interruptions", 1251 *Off. Gaz. Pat. Office* 55 (October 9, 2001).

In the request for reconsideration, applicants state that all three requirements set forth in 37 CFR 1.6(e) have been satisfied. It is agreed that the first two requirements (*i.e.*, an interruption or emergency in the United States Postal Service that has been designated by the Commissioner and the correspondence being promptly filed after the ending of the interruption or emergency) have been satisfied. Applicants assert that the third requirement was satisfied because the application was accompanied by the statement required by the rule, namely, that the application would have been filed on September 12, 2001, if it were not for the designated interruption or emergency in the United States Postal Service. In response to the statement made in the previous decision that the request did not allege any facts, applicants state that they did not allege any facts in the request because neither the statute nor the rule requires them to do so.

As stated in the prior decision, the statute requires that the correspondence being filed in the Office would have been deposited with the United States Postal Service (USPS) but for **postal service** interruptions or emergencies. Thus, the statute requires that (1) the application papers being filed must be complete and ready to be deposited with the USPS on the filing date requested by applicants, and (2) the complete application papers could not be deposited with the USPS for the sole reason that the postal service was not available due to the interruption or emergency designated by the Office.

The previous decision noted that the transmittal letter for the application was dated September 21, 2001, and stated that it did not appear that the application was prepared and ready to be deposited with the USPS on September 12, 2001. The request for reconsideration fails to address this issue. The fact that the applicants' attorney's office was inaccessible to the attorney on September 12, 2001, due to the World Trade Center attack and the attorney was diligent in filing the application papers once his office resumed its normal operations is not sufficient to establish that the application was ready to be deposited with the USPS on September 12, 2001. The record shows that the transmittal letter for the application was dated September 21, 2001. The Office simply cannot accept applicant's statement when the evidence contradicts the statement and applicants have not provided any explanation or additional evidence to show that the application papers were complete and ready to be deposited with the USPS on September 12, 2001.

Contrary to the assertion made in the request for reconsideration, the Office is not attempting to

require applicants to provide evidence proving that the interruption did exist. The Office is simply trying to ascertain whether the application is entitled under the statute, 35 U.S.C. 21(a), to a September 12, 2001 filing date. The statement in the previous decision cited by applicants in the request for reconsideration was made because an indication that the application was attempted to be deposited with the USPS by Express Mail service on September 12, 2001 and that the USPS refused to accept the correspondence or that the application was ready to be deposited with the USPS on September 12, 2001 but all post offices in the area were closed would support the statement that the application would have been filed on September 12, 2001, if it were not for the designated interruption or emergency in the United States Postal Service.

The previous decision has been reconsidered as requested. The result, however, is the same. The request to accord the application a filing date of September 12, 2001 is again dismissed.

Any further request for reconsideration should be filed within **TWO MONTHS** of this decision in order to be considered timely (see 37 CFR 1.181(f)) and 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 Patent Legal Administration

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

Applicant is cautioned, however, that any further request for reconsideration that fails to address the issue of why the transmittal letter is dated September 21, 2001, may be considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704. See "Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term", Final Rule, 65 Fed. Reg. 56365, 56371 (Sept. 18, 2000).

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

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

Kenyon & Kenyon
One Broadway
New York, NY 10004

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MAR 2 9 2002

OFFICE OF PETITIONS

In re Application of
Bernd Petzold et al.
Application No. 09/960,563
Filed: September 21, 2001
Attorney Docket No. 10191/2020

: DECISION DISMISSING REQUEST

This is in response to the "Statement Under 35 U.S.C. § 21(a) and 37 C.F.R. § 1.6(e)" filed September 21, 2001, which is being treated as a request that the above-identified application be accorded a filing date of September 12, 2001.

The above-identified application was filed on September 21, 2001. Applicant requests that the application be accorded a filing date of September 12, 2001 under the provisions of 37 CFR 1.6(e).

37 CFR 1.6(e) states that:

> If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:
> (1) Promptly filed after the ending of the designated interruption or emergency; and
> (2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

35 U.S.C. 21(a) states that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

The U.S. Patent and Trademark Office (Office) designated the interruption in the service of the

USPS in the borough of Manhattan as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a), with the provisions of 37 CFR 1.6(e) in effect. The Office also designated the interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). See "United States Postal Service Interruptions", 1251 *Off. Gaz. Pat. Office* 55 (October 9, 2001).

The request does not allege any facts on which the application can be accorded a September 12, 2001 filing date. The request merely indicates that postal service may have been restored in the area covering the office of Kenyon & Kenyon on September 20, 2001, and then asserts that the correspondence would have been filed on September 12, 2001 if it were not for the USPS interruption and emergency. The statute requires that the correspondence being filed in the Office would have been deposited with the United States Postal Service but for postal service interruptions or emergencies. It is noted that the transmittal letter for the application is dated September 21, 2001, and thus it does not appear that the application was prepared and ready to be deposited with the USPS on September 12, 2001. There is no indication that the application was attempted to be deposited with the United States Postal Service (USPS) Express Mail service on September 12, 2001 and that the USPS refused to accept the correspondence or that the application was ready to be deposited with the USPS on September 12, 2001 but all post offices in the area were closed due to the events of September 11, 2001.

It is noted that the application includes a claim for foreign priority based on a German application filed September 12, 2000. An applicant may delay action until the end of the time period for taking action, but are acting at their own peril when doing so. See Ziegler et al. v. Baxter et al. v. Natta et al., 159 USPQ 378 (ComrPats 1968).

In view of the above, the request is dismissed.

Any request for reconsideration should be filed within **TWO MONTHS** of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be directed 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 Patent Legal Administration

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

The application is being returned to Initial Patent Examination Division to await any response to the Notice to File Missing Parts mailed October 18, 2001.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

KENYON & KENYON
One Broadway
New York, NY 10004

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DEC 18 2003

OFFICE OF PETITIONS

In re Application of :
Hans-Joerg Mathony :
Application No. 09/960,571 : DECISION DISMISSING REQUEST
Filed: September 21, 2001 :
Attorney Docket No. 10191/1917 :

This is in response to the "Statement Under 35 U.S.C. § 21(a) and 37 C.F.R. § 1.6(e)" filed September 21, 2001, which is being treated as a request that the above-identified application be accorded a filing date of September 12, 2001. The application was only recently forwarded to this office for consideration of the request.

The above-identified application was filed on September 21, 2001. Applicant requests that the application be accorded a filing date of September 12, 2001 under the provisions of 37 CFR 1.6(e).

37 CFR 1.6(e) states that:

> If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:
> (1) Promptly filed after the ending of the designated interruption or emergency; and
> (2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

35 U.S.C. 21(a) states that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

The U.S. Patent and Trademark Office (Office) designated the interruption in the service of the USPS in the borough of Manhattan as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a), with the provisions of 37 CFR 1.6(e) in effect. The Office also designated the interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). See "United States Postal Service Interruptions", 1251 *Off. Gaz. Pat. Office* 55 (October 9, 2001).

The request does not allege any facts on which the application can be accorded a September 12, 2001 filing date. The request merely indicates that postal service may have been restored in the area covering the office of Kenyon & Kenyon on September 20, 2001, and then asserts that the correspondence would have been filed on September 12, 2001 if it were not for the USPS interruption and emergency. The statute requires that the correspondence being filed in the Office would have been deposited with the United States Postal Service but for **postal service** interruptions or emergencies. Thus, the statute requires that (1) the application papers being filed must be complete and ready to be deposited with the USPS on the filing date requested by applicant, and (2) the complete application papers could not be deposited with the USPS for the sole reason that the postal service was not available due to the interruption or emergency designated by the Office. It is noted that the transmittal letter for the application is dated September 21, 2001, and thus it does not appear that the application was prepared and ready to be deposited with the USPS on September 12, 2001. There is no indication that the application was attempted to be deposited with the United States Postal Service (USPS) Express Mail service on September 12, 2001 and that the USPS refused to accept the correspondence or that the application was ready to be deposited with the USPS on September 12, 2001 but all post offices in the area were closed due to the events of September 11, 2001.

It is noted that the application includes a claim for foreign priority based on a German application filed September 12, 2000. An applicant may delay action until the end of the time period for taking action, but are acting at their own peril when doing so. See Ziegler et al. v. Baxter et al. v. Natta et al., 159 USPQ 378 (ComrPats 1968).

In view of the above, the request is dismissed.

Any request for reconsideration should be filed within **TWO MONTHS** of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be directed as follows:

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

By FAX: (703) 872-9306
Attn: Eugenia Jones
Office of Patent Legal Administration

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The application is being returned to Technology Center 2100 to await any response to the Office action mailed July 2, 2003.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 13

KENYON & KENYON
One Broadway
New York, NY 10004

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OFFICE OF PETITIONS

In re Application of :
Hans-Joerg Mathony :
Application No. 09/960,571 : DECISION DISMISSING
Filed: September 21, 2001 : PETITION
Attorney Docket No. 10191/1917 :

This is a decision on the "Request for Reconsideration of Decision to Dismiss Request to Accord a Filing Date of September 12, 2001 and Petition Under 37 C.F.R. § 1.183" filed February 19, 2004, again requesting that the above-identified application be accorded a filing date of September 12, 2001.

A request that the above-identified application be accorded a filing date of September 12, 2001, was submitted with the application papers on filing. A decision dismissing the request was mailed on December 18, 2003. On February 19, 2004, the present request for reconsideration and petition (hereinafter referred to as petition) was filed.

37 CFR 1.6(e) states that:

> If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:
> (1) Promptly filed after the ending of the designated interruption or emergency; and
> (2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

35 U.S.C. 21(a) states that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated

by the Director. (Emphasis added.)

In the previous decision, it was acknowledged that the U.S. Patent and Trademark Office (Office) designated the interruption in the service of the USPS in the borough of Manhattan as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a), with the provisions of 37 CFR 1.6(e) in effect, and also designated the interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). See "United States Postal Service Interruptions", 1251 *Off. Gaz. Pat. Office* 55 (October 9, 2001).

As stated in the prior decision, the statute requires that the correspondence being filed in the Office would have been deposited with the United States Postal Service (USPS) but for **postal service** interruptions or emergencies. Thus, the statute requires that: (1) the application papers being filed must be complete and ready to be deposited with the USPS on the filing date requested by applicants, and (2) the complete application papers could not be deposited with the USPS for the **sole reason** that the postal service was not available due to the interruption or emergency designated by the Office.

Petitioner disagrees with this statement as to what the statute requires and argues that the request fully complies with the requirements of 35 U.S.C. 21(a) and 37 CFR 1.6(e). Petitioner argues that the statute does not impose any substantive requirements on applicants and that the language of the statute "indicates that Congress intended to leave it up to the Director to decide how applicants can show entitlement to a filing date earlier than the actual date of receipt." Petitioner cites the legislative history for support. Petitioner further argues that 37 CFR 1.6(e) merely requires applicant to submit "a statement indicating that such correspondence would have been filed on a particular date if it were not for the designated interruption or emergency in the United States Postal Service." Since such a statement has been submitted, petitioner argues that the Office must accord the application a filing date of September 12, 2001.

The Office does not have the authority to promulgate rules that would exceed its statutory authority. Thus, the Office can only accord a filing date under 37 CFR 1.6(e) where the requirements of 35 U.S.C. 21(a) have been met, namely, that the correspondence would have been deposited with the United States Postal Service but for the postal service interruption or emergency designated by the Director. Where the Office has reason to believe that a statement under 37 CFR 1.6(e) may not be true, it has the inherent authority to question the statement to determine whether the applicant is, in fact, entitled to the requested filing date under 35 U.S.C. 21(a) and 37 CFR 1.6(e). In this case, there is evidence that clearly contradicts the statement that was made on filing since the transmittal letter for the application was dated September 21, 2001.

The previous decision noted that the transmittal letter for the application was dated September 21, 2001, and stated that it did not appear that the application was prepared and ready to be deposited

with the USPS on September 12, 2001. The request for reconsideration fails to address this issue. The fact that the applicants' attorney's office was inaccessible to the attorney on September 12, 2001, due to the World Trade Center attack and the attorney was diligent in filing the application papers once his office resumed its normal operations would not be sufficient to establish that the application was ready to be deposited with the USPS on September 12, 2001. The record shows that the transmittal letter for the application was dated September 21, 2001. The Office simply cannot accept applicant's statement when the evidence contradicts the statement and applicants have not provided an adequate explanation or additional evidence to show that the application papers were complete and ready to be deposited with the USPS on September 12, 2001.

The petition was accompanied by a "Statement of Dervis Magistre..." in which Mr. Magistre states that he "was personally responsible for preparing the above-captioned application for filing in the United States Patent and Trademark Office" and he "had completed the application papers, i.e., the four pages of Specification, the one page containing five claims, the one page of Abstract, and the two pages of Figures, that were deposited with the United States Postal Service on September 21, 2001, no later than September 12, 2001."

The statement of Mr. Magistre was made approximately two years and five months after the application was filed. No objective evidence to corroborate Mr. Magistre's statement that he completed the application papers that were deposited with the USPS on September 21, 2001, no later than September 12, 2001, has been submitted. It is unclear how an individual involved in the day-to-day preparations of papers for filing in the USPTO can recall exactly what papers were completed by "no later than" a particular date when those papers were prepared approximately two years and five months earlier.

In the alternative, petitioner requests that the "alleged requirements of 35 U.S.C. § 21(a) and 37 C.F.R. § 1.6(e) be suspended or waived so that a filing date of September 12, 2001 can be accorded to the present application." Petitioner argues that the events of September 11, 2001, constitute "an extraordinary situation" under 37 C.F.R. § 1.183, and justice requires that the Office accord a filing date of September 12, 2001 to the present application.

37 CFR 1.183 states, in part, that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party subject to such other requirements as may be imposed. (Emphasis Added.)

As noted above, the statute requires that the correspondence being filed in the Office would have been deposited with the United States Postal Service (USPS) but for postal service interruptions or emergencies. 37 CFR 1.183 does not give the Office the authority to waive a requirement of

the statute. Therefore, the petition under 37 CFR 1.183 cannot be granted.

It is again noted that the application includes a claim for foreign priority based on a German application filed September 12, 2000. An applicant may delay action until the end of the time period for taking action, but are acting at their own peril when doing so. See Ziegler et al. v. Baxter et al. v. Natta et al., 159 USPQ 378 (ComrPats 1968). Since the above-identified application has been accorded a filing date of September 21, 2001, which is more than one year after the filing date of the German application, the claim for foreign priority **cannot** be accepted. Office records have been corrected accordingly. A corrected filing receipt is attached.

The previous decision has been reconsidered as requested. The result, however, is the same.

In view of the above, the petition is dismissed.

Any request for reconsideration should be filed within **TWO MONTHS** of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be directed as follows:

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

By FAX: (703) 872-9306
Attn: Eugenia Jones
Office of Patent Legal Administration

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Applicant is cautioned, however, that any further request for reconsideration that fails to address the issue of why the transmittal letter is dated September 21, 2001, may be considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704. See "Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term", Final Rule, 65 Fed. Reg. 56365, 56371 (Sept. 18, 2000).

The application is being returned to Technology Center 2100.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON
One Broadway
New York, NY 10004

COPY MAILED

DEC 13 2004

OFFICE OF PETITIONS

In re Application of :
Hans-Joerg Mathony :
Application No. 09/960,571 : DECISION DISMISSING
Filed: September 21, 2001 : PETITION
Attorney Docket No. 10191/1917 :

This is a decision on the "Second Request for Reconsideration of Decision to Dismiss Request to Accord a Filing Date of September 12, 2001, Petition and Statement Under 37 C.F.R. § 1.6(e) and Petition Under 37 C.F.R. § 1.183" filed June 7, 2004, again requesting that the above-identified application be accorded a filing date of September 12, 2001.

A request that the above-identified application be accorded a filing date of September 12, 2001, was submitted with the application papers on filing. A decision dismissing the request was mailed on December 18, 2003. On February 19, 2004, a first request for reconsideration and petition under 37 CFR 1.183 was filed. A decision dismissing the request for reconsideration and petition was mailed on April 6, 2004.

On September 21, 2001, 37 CFR 1.6(e) stated that:

> If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:
> (1) Promptly filed after the ending of the designated interruption or emergency; and
> (2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

35 U.S.C. 21(a) states that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the

United States Postal Service but for postal service interruptions or emergencies designated by the Director. (Emphasis added.)

In the first decision, it was acknowledged that the U.S. Patent and Trademark Office (Office) designated the interruption in the service of the USPS in the borough of Manhattan as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a), with the provisions of 37 CFR 1.6(e) in effect, and also designated the interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). See "United States Postal Service Interruptions", 1251 *Off. Gaz. Pat. Office* 55 (October 9, 2001).

As stated in the prior decisions, the statute requires that the correspondence being filed in the Office would have been deposited with the United States Postal Service (USPS) but for **postal service** interruptions or emergencies. Thus, the statute requires that: (1) the application papers being filed must be complete and ready to be deposited with the USPS on the filing date requested by applicants, and (2) the complete application papers could not be deposited with the USPS for the **sole reason** that the postal service was not available due to the interruption or emergency designated by the Office.

Petitioner continues to disagree with this statement as to what the statute requires and argues that the request fully complies with the requirements of 35 U.S.C. 21(a) and 37 CFR 1.6(e). Petitioner argues that the statute does not impose any substantive requirements on applicants and that the language of the statute "indicates that Congress intended to leave it up to the Director to decide how applicants can show entitlement to a filing date earlier than the actual date of receipt." Petitioner cites the legislative history for support. Petitioner further argues that 37 CFR 1.6(e) merely requires applicant to submit "a statement indicating that such correspondence would have been filed on a particular date if it were not for the designated interruption or emergency in the United States Postal Service." Since such a statement has been submitted, petitioner argues that the Office must accord the application a filing date of September 12, 2001.

As indicated in the previous decision, the Office does not have the authority to promulgate rules that would exceed its statutory authority. Thus, the Office can only accord a filing date under 37 CFR 1.6(e) where the requirements of 35 U.S.C. 21(a) have been met, namely, that the correspondence would have been deposited with the United States Postal Service but for the postal service interruption or emergency designated by the Director. Where the Office has reason to believe that a statement under 37 CFR 1.6(e) may not be true, it has the inherent authority to question the statement to determine whether the applicant is, in fact, entitled to the requested filing date under 35 U.S.C. 21(a) and 37 CFR 1.6(e). In this case, there is evidence that clearly contradicts the statement that was made on filing since the transmittal letter for the application was dated September 21, 2001.

The first decision noted that the transmittal letter for the application was dated September 21, 2001, and stated that it did not appear that the application was prepared and ready to be deposited with the USPS on September 12, 2001. The first request for reconsideration filed February 19, 2004 failed to address this issue. The previous decision mailed April 6, 2004 indicated that the fact that the applicants' attorney's office was inaccessible to the attorney on September 12, 2001, due to the World Trade Center attack and the attorney was diligent in filing the application papers once his office resumed its normal operations would not be sufficient to establish that the application was ready to be deposited with the USPS on September 12, 2001; that the record shows that the transmittal letter for the application was dated September 21, 2001; and that the Office simply cannot accept applicant's statement when the evidence contradicts the statement and applicants have not provided an adequate explanation or additional evidence to show that the application papers were complete and ready to be deposited with the USPS on September 12, 2001.

The first request for reconsideration and petition filed February 19, 2004 was accompanied by a "Statement of Dervis Magistre..." in which Mr. Magistre states that he "was personally responsible for preparing the above-captioned application for filing in the United States Patent and Trademark Office" and he "had completed the application papers, i.e., the four pages of Specification, the one page containing five claims, the one page of Abstract, and the two pages of Figures, that were deposited with the United States Postal Service on September 21, 2001, no later than September 12, 2001." The previous decision mailed April 6, 2004 noted that this statement of Mr. Magistre was made approximately two years and five months after the application was filed. No objective evidence to corroborate Mr. Magistre's statement that he completed the application papers that were deposited with the USPS on September 21, 2001, no later than September 12, 2001, was submitted. The previous decision indicated that "it was unclear how an individual involved in the day-to-day preparations of papers for filing in the USPTO can recall exactly what papers were completed by 'no later than' a particular date when those papers were prepared approximately two years and five months earlier."

In the second request for reconsideration filed June 7, 2004, petitioner points to the wording of 37 CFR 1.137(b), which requires a statement that the entire delay was unintentional and reserves the authority of the USPTO to require additional information where there is a question, and to 37 CFR 1.137(a), which requires a showing to the satisfaction of the Director that the entire delay was unavoidable. Petitioner argues that the MPEP makes a distinction between a statement and a showing and that 37 CFR 1.6(e) merely requires a statement, not a showing.

The requirements of petitions under 37 CFR 1.137 are not relevant. While 37 CFR 1.6(e) requires a statement and does not explicitly require a showing, the Office has the inherent authority to question the statement to determine whether the applicant is entitled to the requested filing date under 35 U.S.C. 21 (a) and 37 CFR 1.6(e) where the Office has reason to believe that the statement under 37 CFR 1.6(e) may not be true. The fact that 37 CFR 1.137(b) explicitly

indicates that the Director may require additional information or that 37 CFR 1.137(a) requires a showing simply does not negate the fact the Office has the inherent authority to question a statement under 37 CFR 1.6(e). The Office has the inherent authority to require additional information. For example, 37 CFR 1.105 was promulgated to give examiners and other Office employees the explicit authority to require submission of such information reasonably necessary for the Office to properly treat a matter. The promulgation of 37 CFR 1.105 was based on the Office's inherent authority to require applicants to reply to requirements for information under 35 U.S.C. 131 and 132.

Furthermore, petitioner does not dispute that the transmittal letter was signed on September 21, 2001, and indicates that applicant only seeks to having a filing date of September 12, 2001 accorded to the four pages of specification, one page of five claims, one page of Abstract, and two sheets of drawings that were mailed on September 21, 2001. Petitioner argues that these papers constitute a complete application under 35 USC 111(a) and 37 CFR 1.53(b).

While it is acknowledged that a transmittal letter is not required for a complete application, here the transmittal letter is evidence that the application papers may not have been complete and ready to be deposited on September 12, 2001, since the date on the transmittal letter is a date later than the filing date requested. The transmittal letter was part of the Express Mail package that included the application papers and it serves as evidence as to when the application papers were ready for deposit. The Office cannot simply ignore the fact that the date on the transmittal letter is a date later than the filing date requested. As noted above, the Office cannot accept applicant's statement under 37 CFR 1.6(e) when the evidence contradicts the statement and applicants have not provided an adequate explanation or additional evidence to show that the application papers were complete and ready to be deposited with the USPS on September 12, 2001.

In addition, the second request for reconsideration was accompanied by a "Second Statement of Dervis Magistre..." with Exhibits A-E. Petitioner argues that the second statement of Mr. Magistre provides sufficient evidence that the application papers for which a filing date of September 12, 2001, were complete and ready to be deposited with the USPS on the filing date requested. Petitioner states that Exhibit A is a copy of a letter dated May 30, 2001 from the assignee to Kenyon & Kenyon that establishes that Kenyon & Kenyon had possession of the German priority application prior to September 12, 2001. Petitioner further states that Exhibit B is a printed record of activity history related to the word processor document that contains the specification, claims, and abstract of the application and Exhibit C is a printed record of activity history related to the word processor document that contains the transmittal form for the application. Petitioner explains that the word processor document that contains the specification, claims and abstract of the application was printed for the last time before the requested September 12, 2001 filing date on August 31, 2001. Therefore, petitioner argues that the specification, claims and abstract were complete and ready to be deposited on September 12,

2001. Petitioner also explains that the word processor document that contains the transmittal form of this application was printed for the last time before the requested September 12, 2001 filing date on September 5, 2001.

As to Exhibit A, while the German priority application may have been in the possession of Kenyon & Kenyon prior to September 12, 2001, the application papers that were actually filed on September 21, 2001, are not the same as the German priority application. As to Exhibits B and C, there is no indication on these documents that they relate to the present application and there is no indication as to how the information contained in the documents relates to the present application. Furthermore, the printed records do not show any documents that contain the drawings for the application. Thus, even if the applicant can provide evidence that the documents are related to the present application, there is no evidence that the drawings for the application were complete and ready to be deposited with the USPS on September 12, 2001.

Petitioner states that Exhibit D is a copy of a letter dated September 4, 2001 from Kenyon & Kenyon to the assignee and Exhibit E is an English-language translation of the German-language letter of Exhibit D. Petitioner argues that this letter establishes that the application papers for which a September 12, 2001 filing date is sought were complete and ready to be deposited on September 12, 2001.

37 CFR 1.52(b) provides that the application and other papers must be in the English language or be accompanied by a translation into the English language along with a statement that the translation is accurate. If petitioner wants to rely on the German-language letter, then a statement that the translation is accurate is required. Furthermore, it is not clear from the letter that the copy of the U.S. application that was purportedly enclosed with the letter is the same as the application papers that were actually filed on September 21, 2001. Petitioner should consider submitting a copy of what is in the assignee's file of what was sent to them on September 4, 2001, by Kenyon & Kenyon, with some evidence of receipt by the assignee. Petitioner should also indicate that the copy is the same as the application papers (i.e., specification including claims, drawings, and abstract) that were filed on September 21, 2001, if, in fact, that is the case.

For the reasons noted above, the evidence of record is not sufficient to show that the application papers were complete and ready to be deposited with the USPS on September 12, 2001.

In the alternative, petitioner again requests that the alleged requirements of 37 CFR.1.6(e) be suspended or waived so that a filing date of September 12, 2001 can be accorded to the present application. Petitioner argues that the events of September 11, 2001, constitute "an extraordinary situation" under 37 CFR 1.183, and justice requires that the Office accord a filing date of September 12, 2001 to the present application. Petitioner argues that no suspension of waiver of any statutory requirement is necessary since the statute merely authorizes the Director to promulgate a rule and does not impose any obligation on applicants.

37 CFR 1.183 states, in part, that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party subject to such other requirements as may be imposed. (Emphasis Added.)

As noted above, the statute requires that the correspondence being filed in the Office would have been deposited with the United States Postal Service (USPS) but for postal service interruptions or emergencies. 37 CFR 1.183 does not give the Office the authority to waive a requirement of the statute. Therefore, the petition under 37 CFR 1.183 cannot be granted.

It is again noted that the application includes a claim for foreign priority based on a German application filed September 12, 2000. An applicant may delay action until the end of the time period for taking action, but are acting at their own peril when doing so. See Ziegler et al. v. Baxter et al. v. Natta et al., 159 USPQ 378 (ComrPats 1968). Since the above-identified application has been accorded a filing date of September 21, 2001, which is more than one year after the filing date of the German application, the claim for foreign priority **cannot** be accepted.

The previous decision has been reconsidered as requested. The result, however, is the same.

In view of the above, the petition is dismissed.

Any request for reconsideration should be filed within **TWO MONTHS** of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be directed as follows:

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

By FAX: (703) 872-9306
Attn: Eugenia Jones
Office of Patent Legal Administration

By hand: U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-7727.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 06, 2008

TO SPE OF : ART UNIT 3724

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/960599 Patent No.: 7344160 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SUPERVISORY PATENT EXAMINER
BOYER D. ASHLEY
BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER 3724

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

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

COPY MAILED

AUG 0 7 2002

OFFICE OF PETITIONS

In re Application of :
Pecus et al. : DECISION GRANTING
Application No. 09/960,605 : PETITION
Filed: September 21, 2001 :
Attorney Docket No. 4940/1D :

This is a decision on the petition under 37 CFR 1.10, filed July 22, 2002, requesting that the above-identified application be accorded a filing date of September 21, 2001, rather than the presently accorded filing date of September 20, 2001.

Petitioner alleges that the application was deposited in Express Mail service on September 21, 2001. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL920636983US. The "date-in" indicated on the Express Mail label is September 21, 2001. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of September 21, 2001. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination **for correction of the filing date to September 21, 2001.**

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 18 2002

Paper No. 12

In re Application of :
Barry L. Rauworth *et al* : DECISION ON PETITION
Application No. 09/960,606 :
Filed: September 21, 2001 :
Attorney Docket No. 2267.398US03

This is a decision on the petition filed by facsimile transmission on November 6, 2002, by which petitioners have requested that the above captioned application be accorded special status for advanced examination out of turn. The $130.00 petition fee has been received.

The petition is granted.

Petitioners' request special status based upon the practice established at MPEP § 708.02(II), Infringement. A review of the petition shows that petitioners have clearly met the requirements for a showing in support of a petition to make special based upon the existence of an infringing device.

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the next 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 3727, 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

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

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

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

COPY MAILED

APR 16 2002

OFFICE OF PETITIONS

In re Application of
Pecus, et al.
Application No. 09/960,636
Filed: September 21, 2001
Attorney Docket No. 5201

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the Petition Under 37 CFR 1.47(a), filed January 15, 2002 (Certificate of Mailing dated December 28, 2001).

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

The above-identified application was filed on September 21, 2001, without an executed oath or declaration. Accordingly, on October 30, 2001, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application. This Notice set a two month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. Applicant included a declaration signed by inventor Vivian Pecus, but lacking a signature from inventor Laura Ruffin.

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, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventors.

On petition, attorney Frederick Yu included a statement of facts in which he detailed his transmittal of the application papers to non-signing inventor Ruffin, as well as his follow up attempts to contact Ruffin. In addition, attorney Yu included copies of the cover letter which enclosed the application papers, certified mail receipts bearing the signature of Ruffin, as well as the follow up correspondence sent to Ruffin.

The declaration filed January 15, 2002 and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the

address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continuation of pre-examination processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAURA RUFFIN
400 SOUTH STREET WEST
KILL DEVIL HILLS NC 27948

COPY MAILED

APR 16 2002

OFFICE OF PETITIONS

In re Application of :
Forouhi, et al. :
Application No. 09/960,636 :
Filed: September 21, 2001 : LETTER
Title: FORWARD CACHE MANAGEMENT :
BETWEEN EDGE NODES IN A SATELLITE
BASED CONTENT DELIVERY SYSTEM

Dear Ms. Ruffin:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

Frederick Yu
Brown, Raysman, Millstein, Felder & Steiner LLP
900 Third Avenue
New York, New York 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

COPY MAILED

JAN 0 7 2005

OFFICE OF PETITIONS

In re Application	:	
Pikula et al.	:	
Application No. 09/960,638	:	DECISION ON APPLICATION
Filed: September 21, 2001	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 077017-9006-00	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)" filed June 28, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred ten (110) days to one hundred thirty-one (131) 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 one hundred thirty-one **(131)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 26, 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 110 days. A period of adjustment of 252 days for Office delay was reduced by periods of reduction of 108 days and 34 days for applicant delay.

On June 28, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 131 days. Applicants dispute the reduction of 108 days associated with their delay in filing a complete and proper response to the Notice to File Missing Parts of Application mailed October 19, 2001. Applicants acknowledge that their response filed January 31, 2002, was received outside of the three month period provided for in § 1.704(b). Further, applicants acknowledge that their response was incomplete, and that a complete response was not received in the Office until April 16, 2002. However, given these admitted delays, applicants

[1] PALM records indicate that the Issue Fee payment was also received in the Office on June 28, 2004.

state that for the delay in filing a complete and proper response to the Notice to File Missing Parts of Application the application is subject to periods of reduction of 12 days (for the period from January 20, 2002 to January 31, 2002) and of 75 days (for the period from February 1, 2002 to April 16, 2002).

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

Applicants' arguments are well-taken. Applicants' characterizations of the amounts and grounds for reduction of the PTA for delay in filing a complete and proper response to the Notice to File Missing Parts of Application are correct. See §§ 1.704(b) and 1.704(c)(7).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one hundred thirty-one (131) days (252 days reduced by 121 days).

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

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

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

Enclosure: Copy of Revised PAIR Screen

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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BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, DC 20001

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of
Claisse, et al.
Application No. 09/960,647
Filed: September 24, 2001
Docket No.: CLAISSE=2

: DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 7, 2005 for failure to timely reply to the non-final Office action mailed June 6, 2005. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed January 19, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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

This application is being forwarded to Technology Center 1700 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : January 08,2008

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/960,665 Patent No.: 7271160 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

1624

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : January 08,2008

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/960,665 Patent No.: 7271160 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

LAMONTE

NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1624

Pet. Dec.

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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Mailed MAY 18 2004

Paper No.

In re Application of Shirley Miekka et al. Serial Number: 09/960703 Filed: September 24,2001 For: METHODS FOR STERILIZING BIOLOGICAL MATERIALS CONTAINING NON-AQUEOUS SOLVENTS	: : : : : : :	DECISION ON PETITION UNDER M.P.E.P. 708.02,II

This is in response to the petition filed, January 15, 2004, requesting that the above-identified application be granted Special Status under Section 708.02, II of the M.P.E.P. 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.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Chemical Engineering

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

JAN 15 2004

Technology Center 2100

DANIELS, DANIELS & VERDONIK, P.A.
Suite 200 Generation Plaza
1822 N.C. Highway 54 East
Durham, NC 27713

In re Application of
Alan Lee TAYLOR, et al
Application No. 09/960,713
Filed: September 21, 2001
For: METHOD AND SYSTEM FOR ESTABLISHING, MAINTAINING, AND USING A PERSISTENT FRACTURE LOG

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 17, 2003.

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

The request is **GRANTED**.

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

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

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

Roy L. Anderson, ESQ.
Jeffers, Shaff & Falk, LLP
Suite 1400
18881 Von Karman Ave.
Irvine, CA 92612

COPY MAILED

JUL 30 2002

OFFICE OF PETITIONS

In re Application of :
Routhenstein, et al. :
Application No. 09/960,714 : DECISION REFUSING STATUS
Filed: September 21, 2001 : UNDER 37 CFR 1.47(a)
Docket No.: JSF35.017 :
For: METHOD FOR GENERATING CUSTOMER:
SECURE CARD NUMBERS SUBJECT TO USE :
RESTRICTIONS BY AN ELECTRONIC CARD :

This is in response to the petition under 37 CFR 1.47(a), filed May 7, 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 September 21, 2001 without an executed oath or declaration and naming Larry Routhenstein, Roy L. Anderson, William R. Bryant, and Jacob Y. Wong as joint inventors. Accordingly, on October 29, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a 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 requirement (1) stated above. Petitioner has failed to establish that the inventor cannot be reached or refused to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, and oath or declaration).

Petitioner alleges as the non-signing inventor verbally refused to sign the declaration. Petitioner is reminded that before a refusal to sign an 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 (specification, including claims, drawings, and oath or declaration) 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).

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor either cannot be located or that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

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

Paper No. 7

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OCT 15 2002

OFFICE OF PETITIONS

LAW OFFICES OF ROY ANDERSON
1010 NORTH CENTRAL AVENUE
GLENDALE, CA 91202

In re Application of :
Routhenstein, et al. :
Application No. 09/960,714 : DECISION GRANTING STATUS
Filed: September 21, 2001 : UNDER 37 CFR 1.47(a)
Docket No.: JSF35.017 :
For: METHOD FOR GENERATING CUSTOMER:
SECURE CARD NUMBERS SUBJECT TO USE :
RESTRICTIONS BY AN ELECTRONIC CARD :

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 7, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor William Bryant has 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.

The requested change of correspondence address has been entered into the record.

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

WILLIAM BRYANT
6802 BAYARD ROAD
FORT PIERCE, FL 34961

In re Application of :
Routhenstein, et al. :
Application No. 09/960,714 : LETTER
Filed: September 21, 2001 :
Docket No.: JSF35.017 :
For: METHOD FOR GENERATING CUSTOMER :
SECURE CARD NUMBERS SUBJECT TO USE :
RESTRICTIONS BY AN ELECTRONIC CARD :

COPY MAILED

OCT 1 5 2002

OFFICE OF PETITIONS

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: LAW OFFICES OF ROY ANDERSON
1010 NORTH CENTRAL AVENUE
GLENDALE, CA 91202

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. 34

NIXON & VANDERHYE P.C.
8TH FLOOR, 1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Barton F. Haynes et al :
Application No. 09/960,717 :
Filed: September 24, 2001 :
Attorney Docket No. 1579-599 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed February 28, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 21, 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.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1648 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 18

MINTZ LEVIN COHN FERRIS GLOVSKY
AND POPEO PC
12010 SUNSET HILLS ROAD
SUITE 900
RESTON VA 20190

COPY MAILED

JUN 1 1 2003

OFFICE OF PETITIONS

In re Application of
Douglas Frazier
Application No. 09/960,759
Filed: September 21, 2001
Attorney Docket No. 267/089

ON PETITION

This is a decision on the petition, filed June 9, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 27, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3753 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 26

**MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO PC
12010 SUNSET HILLS ROAD, SUITE 900
RESTON, VA 20190**

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MAR 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Douglas Frazier :
Application No. 09/960,759 : DECISION GRANTING PETITION
Filed: September 21, 2001 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 267/089 :

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 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 3753 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

Paper No. 21

Date : March 1, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/960,759**

Applicant(s) : Douglas Frazier
Application No. : 09/960,759
Filed : September 21, 2001

The above-identified application has been assigned Patent No. 6,698,448 and an issue date of March 2, 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 March 2, 2004:

"All reference to Patent No. 6,698,448 to Douglas Frazier of California for SPILL CONTAINMENT SYSTEM AND METHOD appearing in the Official Gazette of March 2, 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: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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MAY 23 2003

OFFICE OF PETITIONS

In re Application of	:	
Paresh S. Dalal et al	:	
Application No. 09/960,789	:	DECISION GRANTING PETITION
Filed: September 21, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. STK-8CIP	:	

This is a decision on the petition, filed April 14, 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 February 26, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 28, 2003 has been mailed under separate cover.

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

This application is being forwarded to Technology Center Art Unit 1651 for appropriate action on the reply received January 22, 2003 to the Office action of November 22, 2002.

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

Paper No. 8

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

COPY MAILED

AUG 0 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shinichi Yamashita et al :
Application No. 09/960,797 :
Filed: September 25, 2001 :
Attorney Docket No. 35.C10967D :

This is a decision on the petition, filed August 7, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2186 for processing of the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN H. SHERMAN, LEGAL DEPT.
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET SE
CEDAR RAPIDS IA 52401

COPY MAILED

JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Mahany et al. :
Application No. 09/960,837 : ON PETITION
Filed: September 21, 2001 :
Attorney Docket No. 38307RXA :

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed November 19, 2005.

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

This application was held abandoned June 30, 2004 for failure to timely reply to the final Office Action mailed on March 30, 2004. The final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed November 16, 2005.

Petitioner asserts that a reply to the final Office Action was timely submitted on July 17, 2004. As evidence, petitioner has submitted a copy of the reply which contains an RCE, a one month extension of time, an amendment and a certificate of transmission dated July 17, 2004 pursuant to 37 CFR 1.8. Petitioner has also provided a copy of the Auto Reply receipt. Further review of Office records shows that the RCE and extension of time fees were received on July 17, 2004.

The response submitted July 17, 2004 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2684 for further processing of the RCE, amendment and Request for Suspension of 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
www.uspto.gov

JOHN H. SHERMAN, LEGAL DEPT.
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET SE
CEDAR RAPIDS IA 52401

COPY MAILED

AUG 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Mahany et al.	:	
Application No. 09/960,837	:	DECISION ON PETITION
Filed: September 21, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 38307RXA	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July17, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/US98/02317 as set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272- 3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center 2600.

This application is being referred to Technology Center Art Unit 2684 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed application.

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/960,837	09/21/2001	2684	978	38307RXA	10	26	3

CONFIRMATION NO. 6852

30993
JOHN H. SHERMAN, LEGAL DEPT.
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET SE
CEDAR RAPIDS, IA 52401

CORRECTED FILING RECEIPT

OC000000020028463

Date Mailed: 08/15/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Ronald L. Mahany, Cedar Rapids, IA;
Joseph J. Kubler, Cedar Rapids, IA;
Thomas J. Schuster, Cedar Rapids, IA;

Power of Attorney:

John Sherman--16909

Domestic Priority data as claimed by applicant

This application is a CON of 09/127,276 07/29/1998 ABN
which claims benefit of 60/080,700 04/03/1998
and is a CIP of PCT/US98/02317 02/06/1998
which claims benefit of 60/036,895 02/06/1997
and claims benefit of 60/055,709 08/14/1997
and said 09/127,276 07/29/1998
claims benefit of 60/093,218 07/17/1998

Foreign Applications

If Required, Foreign Filing License Granted: 10/27/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/960,837

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

LOWER POWER WIRELESS BEACONING NETWORK SUPPORTING PROXIMAL FORMATION, SEPARATION AND REFORMATION OF WIRELESS LOCAL AREA NETWORKS (LAN's), AS TERMINALS MOVE IN AND OUT RANGE OF ONE ANOTHER

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

MAILED

MAR 11 2005

Technology Center 2100

In re Application of:
Michael LEVENTON, et al.
Application No. 09/960,874
Filed: September 21, 2001
For: DATABASE ORGANIZATION AND SEARCHING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 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.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Michael E. Leventon
60 Baker Avenue
Lexington, MA 02421

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,879	09/21/2001	Andrea C. Hughs-Baird	0112300-468	5476

29159 7590 03/29/2004

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO, IL 60690-1135

EXAMINER	
NGUYEN, KIM T	

ART UNIT	PAPER NUMBER
3713	8

DATE MAILED: 03/29/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

In re Application	:	
Andrea C. HUGHS-BAIRD, et al	:	DECISION ON PETITION
Serial No. 09/960,879	:	UNDER 37 C.F.R. § 1.181
Filed: September 21, 2001	:	
For: GAMING DEVICE HAVING GAMES	:	
WITH VARIABLE GAME FUNCTIONS	:	

This is a decision on the letter received on January 26, 2004, and captioned Petition to withdraw holding of abandonment in accordance with M.P.E.P. § 711.03 and 37 C.F.R. § 1.181.

The letter includes a copy of a combined amendment and petition for extension of time, a cancelled check, and a post card receipt dated October 8, 2003, showing that the amendment, petition for extension of time, and fee were received on that date.

The petition is granted. It is apparent that the application was never in fact abandoned.

Accordingly, the Notice of Abandonment mailed January 9, 2004, is hereby vacated and the holding of abandonment is withdrawn.

The application will be returned to the examiner for further processing consistent with this decision.

Teresa J. Walberg
Supervisory Patent Examiner
Art Unit 3713

tw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

Paper No. 5

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0599

COPY MAILED

DEC 3 1 2001

OFFICE OF PETITIONS

In re Application of	:	
Faust and Elmore	:	
Application No. 09/960,904	:	DECISION ACCORDING STATUS
Filed: 21 September, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 10010841-1	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 21 September, 2001.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Glenn E. Elmore, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of petitioner's registered patent counsel, Gregory W. Ostercloth, establishes that the non-signing inventor was sent a copy of the application, but refused in writing, via his attorney, to sign the declaration.

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

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

The application is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

Glenn E. Elmore
446 Halter Court
Santa Rosa, CA 95401

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DEC 3 1 2001
OFFICE OF PETITIONS

In re Application of
Faust et al.
Application No. 09/960,904
Filed: 21 September, 2001
For: Delivery and Display of Measurement Instrument Data Via a Network

Dear Mr. Elmore:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0599

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-23-10

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No.: 09960923 Patent No.: 7664697

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch
703-756-1575

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: _____

7/14/10
JASON BOZMAN (3693)

/James A Kramer/ 3693

SPE Art Unit

O I P E JC174
APR 01 2004
PATENT & TRADEMARK OFFICE

DAC

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
APR 02 2004
OFFICE OF PETITIONS

In re application of

Kenji TODA, et al.

Appln. No.: 09/960,955

Confirmation No.: 6229

Filed: September 25, 2001

Docket No: Q66285

Allowed: March 9, 2004

Group Art Unit: 1755

Examiner: Carol M. Koslow

For: FLUORESCENT SUBSTANCES FOR VACUUM ULTRAVIOLET RADIATION EXCITED LIGHT-EMITTING DEVICES

REQUEST FOR APPLICATION OF PREVIOUSLY PAID ISSUE FEE TO BE APPLIED TOWARDS THE NOTICE OF ALLOWANCE AND FEE(S) DUE DATED MARCH 9, 2004

RECEIVED
APR 06 2004
TC 1700

BOX ISSUE FEE
Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to the Notice of Withdrawal From Issue Under 37 C.F.R. § 1/313(b) dated December 23, 2003, Petition To Withdraw Application From Issuance In Accordance With 37 C.F.R. § 1.313(a) and (c)(2) and the Request for Continued Examination (RCE) filed December 18, 2003 (copies attached), Applicant hereby requests that the issue fee submitted on December 3, 2003 be applied to the new Notice of Allowance and Fee(s) mailed March 9, 2004. Applicant also submits herewith the new Issue Fee Transmittal Form PTOL-85(b).

The USPTO is directed and authorized to charge any required fees to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Patrick F. Gallagher
Registration No. 54,109

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: April 1, 2004

OIPE JC174
APR 01 2004
PATENT & TRADEMARK OFFICE

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Kenji TODA, et al.

Appln. No.: 09/960,955

Confirmation No.: 6229

Filed: September 25, 2001

RECEIVED
APR 02 2004
OFFICE OF PETITIONS

Docket No: Q66285

Group Art Unit: 1755

Examiner: Carol M. Koslow

For: FLUORESCENT SUBSTANCES FOR VACUUM ULTRAVIOLET RADIATION EXCITED LIGHT-EMITTING DEVICES

PETITION TO WITHDRAW APPLICATION FROM ISSUANCE IN ACCORDANCE WITH 37 C.F.R. §1.313(a) and (c)(2) FOR A REQUEST FOR CONTINUED EXAMINATION

FILED
DEC 18 2003

RECEIVED
APR 06 2004
TC 1700

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions the Commissioner to withdraw the above-identified application from issuance in accordance with 37 C.F.R. §1.313(a) and (c)(2). Insofar as Applicant can determine, although the Issue Fee was paid on December 3, 2003, the above-identified application has not been accorded an issue date or a patent number.

The present petition is being filed to request consideration of a request for continued examination (RCE) in compliance with 37 C.F.R. §1.114 and consideration of an Information Disclosure Statement under 37 C.F.R. §1.97, in the above-identified application.

An Information Disclosure Statement and RCE are being filed concurrently herewith.

TODA et al.
Appln. No. 09/960,955
Petition to Withdraw from Issuance

Pursuant to 37 C.F.R. §1.17(i), a check for the Petition fee of $130.00 is attached. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this petition and authorization is enclosed.

Respectfully submitted,

J. Frank Osha
Registration No. 24,625

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: December 18, 2003

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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SUGHRUE, MION, ZINN,
MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20037-3213

DOCKETED
DEC 30 2003

In re Application of
Kenji Toda et al
Application No. 09/960,955
Filed: September 25, 2001
Attorney Docket No. Q66285

ON PETITION

Only Copies

This is a decision on the petition, filed December 18, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 3, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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APR 06 2004
TC 1700

[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).

OIPE JC17
APR 0 1 2004
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25

FILING RECEIPT
PLEASE DATE STAMP AND RETURN TO US - BOX 235X

PLEASE HAND CARRY TO CRYSTAL PLAZA 4, SUITE 3C23

In re application of

Kenji TODA, et al.

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OFFICE OF PETITIONS

Appln. No.: 09/960,955

Group Art Unit: 1755

Confirmation No.: 6229

Examiner: Carol M. Koslow

Filed: September 25, 2001

For: FLUORESCENT SUBSTANCES FOR VACUUM ULTRAVIOLET RADIATION EXCITED LIGHT-EMITTING DEVICES

PAPER(S) FILED ENTITLED:

1. Request for Continued Examination and $770.00Check
2. Petition To Withdraw Application From Issuance In Accordance With 37 C.F.R. §1.313(a) and (c)(2) For A Request For Continued Examination and $130.00 check
3. Information Disclosure Statement (with a copy of Communication from a foreign patent office, references and PTO/SB/08 A & B (modified))

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

DOCKET NO.: Q66285
ATTORNEY/SEC: JFO/ecb
Date Filed: December 18, 2003

OIPE JC98
DEC 18 2003
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TC 1700

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COMMISSIONER FOR PATENTS
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Paper No. 3

Wenderoth, Lind & Ponack, L.L.P.
2033 "K" Street, N.W., Suite 800
Washington, D.C. 20006-1021

COPY MAILED

OCT 2 3 2001

OFFICE OF PETITIONS

In re Application of :
Yasuo Mukohata :
Application No. 09/960,985 : DECISION DISMISSING REQUEST
Filed: September 25, 2001 :
Attorney Docket No. 2001 1314A :

This is a decision on the "Request For Filing Date Under 37 C.F.R. 1.6(e)" filed September 25, 2001, requesting that the above-identified application be accorded a filing date of September 20, 2001.

The above-identified application was filed on September 25, 2001. Applicant requests that the application be accorded a filing date of September 20, 2001 under the provisions of 37 CFR 1.6(e). The request indicates that on September 12, 2001, an e-mail message was sent from applicant's Japanese patent representatives to applicant's attorney's firm (Wenderoth, Lind & Ponack) indicating that a new order letter for a patent application was sent to the firm. An electronic copy of the application was attached to the e-mail message. On September 20, 2001, applicant's attorney's firm sent an e-mail to the Japanese patent representatives seeking advice about the due date of the application. On September 21, 2001, applicant's attorney's firm received a letter dated September 12, 2001, from the Japanese patent representatives which included the application papers. On September 21, 2000, applicant's attorney sent a letter by facsimile transmission requesting information about the mailing of the letter dated September 12, 2001. This letter was resent by facsimile transmission on September 24, 2001. On September 25, 2001, applicant's attorney received a letter from the Japanese representatives which provided the requested information about the mailing of the September 12, 2001 letter. The September 25, 2001 letter indicates that September 12, 2001 was the date that the letter dated September 12, 2001, was handed in at the window of the Post Office service to send by EMS (an international express mail service), but the letter was returned due to the postal service being stopped for the U.S.A. and that the letter was resent by EMS on September 17, 2001, the first date that the postal service for the U.S.A. was restarted. The September 25, 2001 letter also indicates that the Japanese patent representatives attempted to send the letter on September 12, 2001 by facsimile but the lines for the U.S.A. were busy. Copies of the correspondence between applicant's attorney and firm and the Japanese representatives were attached to the request.

37 CFR 1.6(e) states that:

> If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:
> (1) Promptly filed after the ending of the designated interruption or emergency; and
> (2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

35 U.S.C. 21(a) states that:

> The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

The U.S. Patent and Trademark Office (Office) designated the interruption in the service of the USPS in the borough of Manhattan as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a), with the provisions of 37 CFR 1.6(e) in effect. The Office also designated the interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). See "United States Postal Service Interruptions", 1251 *Off. Gaz. Pat. Office* 55 (October 9, 2001).

The request does not allege any facts on which the application can be accorded a September 20, 2001 filing date. Specifically, there is no allegation that the application was attempted to be deposited with the United States Postal Service (USPS) Express Mail service on September 20, 2001, and that the USPS refused to accept the correspondence or that the U.S. Post Office was closed due to the events of September 11, 2001. The designated postal service interruption or emergency does not extend to international mail or to correspondence between applicant's Japanese representatives and applicant's attorneys. The statute requires that the correspondence being filed in the Office would have been deposited with United States Postal Service but for postal service interruptions or emergencies. The international express mail service or EMS, which is referred to in the September 25, 2001 letter from the Japanese patent representatives, is not associated with the United States Postal Service. Furthermore, the September 12, 2001 letter was sent to applicant's attorney, not to the Office.

It is noted that applicant's U.S. attorney had a copy of the application (i.e., everything necessary to file an application and obtain a filing date) on September 12, 2001, but only lacked information on how long the filing of the U.S. application could be delayed while still claiming benefits under

35 U.S.C. 119(a)-(d). An applicant may delay action until the end of the time period for taking action, but are acting at their own peril when doing so. See Ziegler et al. v. Baxter et al. v. Natta et al., 159 USPQ 378 (ComrPats 1968).

In view of the above, the request is dismissed.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of **September 25, 2001**.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 3

Kile Goekjian Lerner & Reed PLLC
The Evening Star Building
1101 Pennsylvania Ave., NW
Suite 800
Washington, DC 20004

MAIL

MAY 3 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Scott Mager, et al.
Application No. 09/960,993
Filed: September 25, 2001
For: SYSTEM AND METHOD FOR PROVIDING CLASSIFIED ADVERTISEMENTS IN A BUILDING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed May 6, 2002.

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

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

Bradford E. Kile
KILE GOEKJIAN LERNER & REED
1101 Pennsylvania Ave., N.W.
Washington, DC 20004

MAIL

JUN 2 4 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

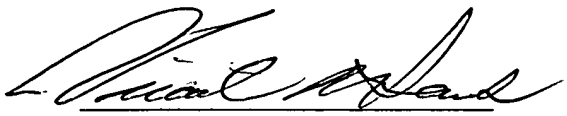
In re Application of:)
Scott Mager et al.)
Application No. 09/960,993) **DECISION ON REQUEST FOR**
Filed: September 25, 2001) **WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR)
PROVIDING CLASSIFIED
ADVERTISEMENTS IN A
BUILDING

This is a decision on the Request To Withdraw from Representation filed May 6, 2002 and supplemented by the filing of June 7, 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 June 7, 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: Scott Mager
SHORT PATH, INC.
7 West 31st Street
New York, NY 10001

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Paper No. 6

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Suite 800
Washington, DC 20004

MAIL

MAY 3 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Scott Mager, et al
Application No. 09/960,994
Filed: September 25, 2001
For: SYSTEM AND METHOD FOR TARGETING ADVERTISEMENTS TO TENANTS IN A BUILDING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

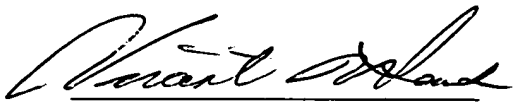
This is a decision on the Request To Withdraw from Representation filed May 6, 2002.

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

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

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



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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

Bradford E. Kile
KILE GOEKJIAN LERNER & REED
1101 Pennsylvania Ave., N.W.
Washington, DC 20004

MAIL

JUN 2 4 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:)
Scott Mager et al.)
Application No. 09/960,994) **DECISION ON REQUEST FOR**
Filed: September 25, 2001) **WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR)
TARGETING ADVERTISEMENTS
IN A BUILDING

This is a decision on the Request To Withdraw from Representation filed May 6, 2002 and supplemented by the filing of June 7, 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 June 7, 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: Scott Mager
SHORT PATH, INC.
7 West 31st Street
New York, NY 10001

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

Steven B. Pokotilow, Esq.
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, NY 10038

Mail Date: 04/21/2010

Applicant	: Scott Mager	: DECISION ON REQUEST FOR
Patent Number	: 7590723	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/960,994	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/25/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **707** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 3

Kile Goekjian Lerner & Reed PLLC
The Evening Star Building
1101 Pennsylvania Ave., NW
Suite 800
Washington D.C. 20004

MAIL

MAY 3 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Scitt MAGER, et al.
Application No. 09/960,996
Filed: September 25, 2001
For: SYSTEM AND METHOD FOR MANAGING PROVISION OF COMMERCIAL PRODUCTS AND SERVICES IN A BUILDING

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed May 6, 2002.

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

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

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

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

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Paper No. 5

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1101 Pennsylvania Ave., N.W.
Washington, DC 20004

MAIL

JUN 2 4 2002

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

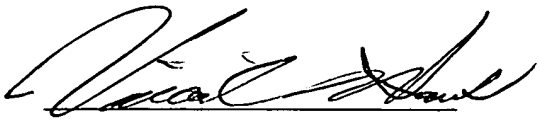
In re Application of:)
Scott Mager et al.)
Application No. 09/960,996) **DECISION ON REQUEST FOR**
Filed: September 25, 2001) **WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR) MANAGING PROVISION OF COMMERCIAL PRODUCTS AND SERVICES IN A BUILDING

This is a decision on the Request To Withdraw from Representation filed May 6, 2002 and supplemented by the filing of June 7, 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 June 7, 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: Scott Mager
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7 West 31st Street
New York, NY 10001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

FEB 1 2005

In re Application of Madhav DATTA, et al.
Application no. 09/961,036
Filed: 21 September 2001
Attorney Docket No. 884.523US1
Title: Dual-Stack, Ball-Limiting Metallurgy and Method of Making the Same

: DECISION ON PETITION
: TO WITHDRAW OBJECTION
: OF DRAWINGS

This is a decision on the petition filed under 37 C.F.R. §1.181 on 16 December 2004, to withdraw the objection to the drawings.

The petition is **GRANTED** to the extent indicated below.

37 C.F.R. § 1.83(a) states,

> "(a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box)."

Given Applicant's admission in the petition that the connection of the bond pad to the metallization is conventional, it is submitted that the requirement under 37 C.F.R. § 1.83(a) has been fulfilled. Accordingly, the objection to the drawings is withdrawn.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 06 2009

OFFICE OF PETITIONS

Michael Best & Friedrich, LLP
100 E. Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

In re Patent No. 6,985,795 :
Issue Date: January 10, 2006 :
Application No. 09/961,063 : ON PETITION
Filed: September 21, 2001 :
Attorney Docket No. 023575-9026 :

This is a decision on the petition filed November 19, 2008, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Ingersoll-Rand Company, Woodcliff Lake, NJ (US)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Ingersoll-Rand Company, Woodcliff Lake, NJ(US)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Kimberly Inabinet at (571) 272-4618. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 24 2006
OFFICE OF PETITIONS

Jonathan M. Waldman
Woodcock Washburn Kurtz Machiewicz and Norris, LLP
One Liberty Place, 46th Floor
Philadelphia, PA 19103

In re Application of :
CORDSMEYER, JOEL E., et al :
Application No. 09/961,078 : DECISION ON PETITION
Filed: September 21, 2001 : TO WITHDRAW
Attorney Docket No. BELL-0116/01114 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 17, 2005.

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

A review of the file record indicates that the power of attorney to customer number 38952 has been revoked by the assignee of the patent application on October 20, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

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

Telephone inquires concerning this decision should be directed to Amelia Au at 571-272- 7414.

Amelia Au
Petitions Examiner
Office of Petitions

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

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Douglas D. Ross et al	:	
Application No. 09/961,086	:	DECISION GRANTING PETITION
Filed: September 21, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 70089.0009USD1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 2, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1642 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.*

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

DR. ROBERT C. CHIN
12909 STANZEL DRIVE
AUSTIN, TX 78729

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MAR 2 0 2003

OFFICE OF PETITIONS

In re Application of
Shahzi Iqbal et al
Application No. 09/961,089
Filed: September 24, 2001
Attorney Docket No. GX1-10

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed March 4, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be filed within two months of the mail date of this decision. Note 37 CFR 1.181(f).

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

> (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 24, 2001, within twelve months of the filing date of the prior provisional application, Application No. 60/234,751, which was filed on September 25, 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.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re de Seversky, *supra*. *Note also* MPEP 201.06(c).

Additionally, the petition does not comply with item (3) above in that the required statement of unintentional delay has not been submitted.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[2] deleting the incorporation by reference statement, a proper statement of unintentional delay, and a renewed petition under 37 CFR 1.78(a)(6) are required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment and renewed petition by facsimile transmission to the number indicated below and to the attention of the undersigned..

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

By mail:
U.S. Patent and Trademark Office
P.O. Box 2327
Mail Stop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

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

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

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[2] Note 37 CFR 1.121

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. 13

DR. ROBERT C. CHIN
12909 STANZEL DRIVE
AUSTIN, TX 78729

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
Shahzi Iqbal et al
Application No. 09/961,089
Filed: September 24, 2001
Attorney Docket No. GX1-10

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed by facsimile transmission on May 7, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/234,751, filed September 25, 2000.

The petition is **Granted**.

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

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

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

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on September 24, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/234,751, which was filed on September 25, 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. 60/234,751 is granted.

The granting of the petition to accept the delayed benefit claim to the prior 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 application. In order for the instant application to be entitled to the benefit of the prior application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

The application is being forwarded to Technology Center AU 1637 for processing the amendment submitted May 7, 2003 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/234,751, filed September 25, 2000.

Frances Hicks
Lead 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.:20060417

DATE : April 17, 2006

TO SPE OF : ART UNIT 1637 09/961089

SUBJECT : Request for Certificate of Correction on Patent No.: 6,861,219 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Gary Benzion **Art Unit** 1637

PTO/SB/44 (05-03)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,861,219 B2

DATED : March 1, 2005

INVENTOR(S) : Iqbal, et al.

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

In claim 5, line 2, please change the word "stands" to --strands--.

In claim 10, line 1, please change "method of claim 1," to --method of claim 9--.

In claim 14, line 10, please change the word "stands" to --strands--.

In claim 16, line 2, please change the word "stands" to --strands--.

In claim 17, line 2, please change the word "stands" to --strands--.

MAILING ADDRESS OF SENDER:
TOLER, LARSON & ABEL, LLP
5000 Plaza On The Lake, Suite 265
Austin, TX 78746

PATENT NO. 6,861,219 B2

No. of additional copies

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,861,219 B2

DATED : March 1, 2005

INVENTOR(S) : Iqbal, et al.

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

In the References Cited section, please add:

Lennon, G.G. (2000) High-throughput gene expression analysis for drug discovery. DDT, 5(2), 59-66

Artinger, M. et al. (1998) High throughput Analysis of Differential Gene Expression. J. Cell. Biochem. Suppl. 30/31, 286-296

Berk, A.J. & Sharp, P.A. (1977) Sizing and mapping of early adenovirus mRNAs by gel electrophoresis of S1 endonuclease-digested hybrids. Cell 12, 721-732

Lee, J.J. and Costlow, N.A. (1987) A molecular titration assay to measure transcript prevalence levels. Methods Enzymol. 152, 633-648

Hedrick, S.M. et al. (1984) Isolation of cDNA clones encoding T cell-specific membrane-associated proteins. Nature 308, 149-153

Swaroop, A. et al. (1991) A simple and efficient cDNA library subtraction procedure: Isolation of human retina-specific cDNA clones. Nucleic Acids Res. 25, 1954

Lisitsyn, N. et al. (1993) Cloning the differences between two complex genomes. Science 259, 946-951

Greenberg, M.E. and Ziff, E.B. (1984) Stimulation of 3T3 cells induces transcription of the c-fos proto-oncogene. Nature 311, 433-438

Marzluff, W.F. (1978) Transcription of RNA in isolated nuclei. Methods Cell Biol. 19, 317-331

Manley, J.L. and Gefter, M.L. (1981) Transcription of mammalian genes in vitro. Gene Amplif. Anal. 2, 369-382

Liang, P. and Pardee, A.B. (1992) Differential display of eukaryotic messenger RNA by means of the polymerase chain reaction, Science 257, 967-997

MAILING ADDRESS OF SENDER:
TOLER, LARSON & ABEL, LLP
5000 Plaza On The Lake, Suite 265
Austin, TX 78746

PATENT NO. 6,861,219 B2

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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 : 6,861,219 B2

DATED : March 1, 2005

INVENTOR(S) : Iqbal, et al.

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

In the References Cited section, please add:

Zhang, L. et al. (1997) Gene expression profiles in normal and cancer cells. Science 276, 1268-1272

Polyak, K. et al. (1997) A model for p53-induced apoptosis. Nature 389, 300-305

Schena M. et al. (1995) Quantitative monitoring of gene expression patterns with a complementary DNA microarray. Science 270, 467-470

Lennon, G.G. et al. (1996) the I.M.A.G.E. consortium: An integrated molecular analysis of genomes and their expression. Genomics 33, 151-152

Heller, R.A. et al. (1997) Discovery and analysis of inflammatory disease-related genes using cDNA microarrays. Proc. Natl. Acad. Sci. U.S.A. 94, 2150-2155

Schena, M. et al. (1996) Parallel human genome analysis: Microarray-based expression monitoring of 1000 genes. Proc. Natl. Acad. Sci. U.S.A. 93, 10614-10619

Gress, T. et al. (1992) Genome 3:609-619.

Southern, E.M. (1975) J. Mol. Biol. 98: 503-517.

Gray, N.S. et al. (1998) Exploiting chemical libraries, structure, and genomics in the search for kinase inhibitors. Science 281, 533-538

Marton, M.J. et al. (1998) Drug target validation and identification of secondary drug target effects using DNA microarrays. Nat. Med. 4, 1293-1301

Braxton, S. and Bedilion, T. (1998) The integration of microarray information in the drug development process. Curr. Opin. Biotechnol. 9, 643-649

MAILING ADDRESS OF SENDER:
TOLER, LARSON & ABEL, LLP
5000 Plaza On The Lake, Suite 265
Austin, TX 78746

PATENT NO. 6,861,219 B2

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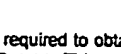

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated 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: 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.

MAR 2 3 2005

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COMMISSIONER FOR PATENTS
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Paper No. 6

BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of
Costa, et al.
Application No. 09/961,104
Filed: September 24, 2001
Attorney Docket No. 114303.3060
For: ALARM PULL-STATION WITH CAMERA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), and in the alternative, under 37 CFR 1.137(b), to revive the above-identified application. Both petitions were filed in the same paper on July 2, 2003.

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

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

This application was filed on September 24, 2001. On October 23, 2001, the Office mailed a Notice to File Corrected Application Papers, setting forth a 2 month extendable period to submit substitute drawings in compliance with 37 CFR 1.84. The Office did not receive a reply. Thus, this application became technically abandoned on November 25, 2001. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

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

Regarding (3), petitioner has not shown to the satisfaction of the Commissioner that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

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).

Petitioners allege that the delay in responding to the October 23, 2001 Notice was unavoidable because the attorney of record was in the process of relocating offices and was no longer located at the mailing address of the October 23, 2001 mailing.

Applicants have not shown that adequate provisions were made for the careful handling of Office correspondence in order to ensure a timely response. Applicants are responsible for apprising the Office of changes in correspondence address. Delay in prosecution resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not unavoidable. See, Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), 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). A delay caused by the failure on the part of the petitioner to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

The petition under 37 CFR 1.137(a) is dismissed. Pursuant to petitioners' authorization, deposit account no. 50-2036 will be charged the $110 fee associated with filing a petition under 37 CFR 1.137(a).

In the alternative, petitioners request consideration under 37 CFR 1.137(b). Applicants have submitted a reply in the form of substitute drawings, an acceptable statement of the unintentional nature of the delay in responding to the October 23, 2001 Notice, and authorization to charge the petition fee. Pursuant to petitioners' authorization, deposit account no. 50-2036 will be charged the $1,300 fee associated with filing a petition to revive.

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

After the mailing of this decision the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Matthew J. Peirce, Esq.
1550 Starlight Canyon Avenue
Las Vegas NV 89123

COPY MAILED

MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of :
McConnell :
Application No. 09/961,122 : DECISION ON PETITION
Filed: September 20, 2001 :
Attorney Docket No. N/A :
For: APPARATUS FOR ATTACHING DISPLAY ITEM TO VEHICLE

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 6, 2001, which set a period for reply of three (3) months. On June 6, 2002 petitioner filed a three month extension of time and paid $200.00, which was the amount due for a two month extension of time. Thus, the application became abandoned on February 7, 2002. Nevertheless, prosecution continued. The Office mailed a Notice of Non-Compliant Amendment on June 24, 2002. Petitioner submitted another amendment and the $260.00 balance due for the previously requested three month extension of time on July 18, 2002. On July 31, 2002 the Office mailed another Notice of Non-Compliant Amendment. A Notice of Abandonment was mailed on December 20, 2002.

Petitioner has submitted an amendment in response to the December 6, 2001 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 6, 2001 non-final Office action, and the petition fee.[1]

[1] The current small entity fee due for filing a petition under 37 CFR 1.137(b) is $750.00. Petitioner submitted only $665.00. However, the $260.00 extension of time submitted on July 18, 2002 was late. Pursuant to

After the mailing of this decision, the application will be returned to Technology Center G.A.U. 3627 for consideration of the amendment, filed January 6, 2005, with respect to compliance with 37 CFR 1.121 and if it is compliant, substantive issues.

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

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

E. Shirene Willis

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

cc: MATTHEW J. PEIRCE
330 S. 3RD ST. #1005
LAS VEGAS, NV 89101

---

37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply. Since the July 18, 2002 extension of time was late, it cannot be accepted. It will be applied to the $85.00 balance due for the petition fee. $175.00 will be refunded via a treasury check that will be scheduled shortly.

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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 04/20/2010

Applicant	: Adam Ferrari	: DECISION ON REQUEST FOR
Patent Number	: 7617184	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/961,131	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1829** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 05/17/2010

Applicant : Adam Ferrari
Patent Number : 7617184
Issue Date : 11/10/2009
Application No: 09/961,131
Filed : 09/21/2001

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1867** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BO BENGTSSON
C/O P. GLASER
RAVERNS GRAND 18 B, LTR
UPPSALA, 753 19
SWEDEN

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Bo Philip Bengtsson :
Application No. 09/961,149 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. :

This is a decision on the petition, filed February 28, 2005 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed August 25, 2003, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 26 2004.

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

Petitioner did not properly respond to the Ex parte Quayle mailed August 25, 2003. Enclosed is a copy of the Ex parte Quayle. This petition can not be revive until the proper response has been received.

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

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

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

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

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

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

Attachment: Ex parte Quayle Mailed August 25, 2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Bulent M. Basol :
Application No. 09/961,193 : ON PETITION
Filed: September 20, 2001 :
Attorney Docket No. 042496 0269244 :

This is a decision on the papers styled, "Petition Regarding Notice of Omitted Items," filed on April 15, 2002, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of September 20, 2001, including Figures 1, 2A, 2B and 2C as described in the specification.

The application was filed on September 20, 2001. However, on March 22, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Reply (Nonprovisional)" (Notice) that stated the application had been accorded a filing date, but Figures 1, 2A, 2B and 2C as described in the specification appear to have been omitted.

In response, on April 15, 2002, the instant petition and a copy of Figures 1, 2A, 2B and 2C as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of five (5) sheets of drawings on September 20, 2001. The five (5) sheets of drawings contain Figures 1-6, with the first sheet of drawings containing Figures 1, 2A, 2B and 2C. A review of the application file indicates the presence of only four (4) sheets of drawings with the first sheet containing Figures 1, 2A, 2B and 2C missing. It is assumed that the first sheet of drawings containing Figures 1, 2A, 2B and 2C was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on April 15, 2002 will be refunded to deposit account no. 03-3975.

This application will be returned to OIPE for further processing with a filing date of September 20, 2001, using the copy of Figures 1, 2A, 2B and 2C as described in the specification, supplied on April 15, 2002.

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

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Paper No. 14

PILLSBURY WINTHROP LLP
2475 HANOVER STREET
PALO ALTO CA 94304-1114

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APR 0 1 2004

OFFICE OF PETITIONS

In re Application of
Bulent M. Basol
Application No. 09/961,193
Filed: September 20, 2001
Attorney Docket No. 042496 0269244

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 1, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed applications, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment submitted with the instant petition.

The petition is **Granted**.

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

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

---

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

The instant application was filed on September 20, 2001 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

As to the benefit claim under 37 CFR 1.78(a)(6):

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

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

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

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on September 20, 2001. Intermediate Application No. 09/740,701, filed December 18, 2000, was filed within twelve months of provisional Application No. 60/224,739, which was filed on August 10, 2000, for which priority is claimed. A reference to the prior- filed 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)(2)(ii) and 1.78(a)(5)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. § § 120 and 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should <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 aplications 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 Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1753 for processing the amendment submitted August 1, 2003, and for processing and consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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APR 11 2007

OFFICE OF PETITIONS

In re Patent No. 6,890,721	:	DECISION ON REQUEST
Dixit et al.	:	FOR RECONSIDERATION OF
Issue Date: May 10, 2005	:	PATENT TERM ADJUSTMENT
Application No. 09/961,201	:	and
Filed: September 24, 2001	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. PF335D2	:	CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d), filed July 11, 2005. Patentees request that the patent term adjustment for the above-identified patent be corrected from one hundred ninety-four (194) days to three hundred fourteen (314) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred fourteen **(314)** days.

On May 10, 2005, the application matured into U.S. Patent No. 6,890,721, with a revised patent term adjustment of 194 days. On Monday, July 11, 2005, patentees timely submitted this request for reconsideration of patent term adjustment (with

required fee), requesting that the Patent Term Adjustment be corrected to 314 days. Patentees dispute the reduction of 120 days associated with the filing of a letter after the mailing of the notice of allowance.

Petitioners' arguments have been considered, and have been found persuasive. As stated in MPEP 2732:

> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office).

The letter filed October 5, 2004, was a Power of Attorney (including the required 3.73(b) statement). No reduction is warranted for the filing of this paper.

In view thereof, the patent should have issued with a patent term adjustment of three hundred fourteen (314) days.

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

The fee is required and will not be waived.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED FOURTEEN **(314)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,890,721 B1

DATED : May 10, 2005

INVENTOR(S) : Dixit 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 (194) days

Delete the phrase "by 194" and insert – by 314 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 4, 2005

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/961,223 Patent No.: 6,941,203

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ 3661

SPE **Art Unit**

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DUANE MORRIS LLP
505 9TH STREET
SUITE 1000
WASHINGTON DC 20004-2166

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MAR 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Royall et al.	:	
Application No. 09/961,234	:	DECISION ON PETITION
Filed: September 24, 2001	:	
Attorney Docket No. ROY03 001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, (2) the petition fee, and (3) a proper statement of unintentional delay.

The Notice of Appeal filed February 28, 2008, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

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

This matter is being referred to Technology Center 2162 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,234	09/24/2001	William A. Royall JR.	ROY03 001	6263

39290 7590 05/13/2009

DUANE MORRIS LLP - DC
505 9th Street
Suite 1000
WASHINGTON, DC 20004-2166

EXAMINER	
CORRIELUS, JEAN M	
ART UNIT	**PAPER NUMBER**
2162	

MAIL DATE	DELIVERY MODE
05/13/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patrick C. Muldoon
DUANE MORRIS LLP -DC
505 9th Street, Suite 1000
Washington, DC 20004-2166

In re Application of:
William A. ROYALL, Jr. et al.
Application No. 09/961,234
Filed: September 24, 2001
For: METHOD OF GENERATING INCREASED APPLICATIONS FOR ENROLLMENT AT EDUCATIONAL INSTITUTIONS

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file a proper reply to the Office communications mailed on 15 November 2007 and 28 February 2008. A Notice of Abandonment was mailed on 28 October 2008.

A review of the file record indicates that a Notice of Panel Decision from Pre-Appeal Brief Review was mailed on 19 September 2008. The Notice of Panel Decision stated the application remains under appeal because there is at least one actual issue for appeal and reset a period for filing an appeal brief to one month from mailing the Notice of Panel Decision with extendible time period under 37 CFR 1.136(a). Applicant has until 19 March 2009 to file an appeal brief. Thus, the mailing of Notice of Abandonment on 28 October 2008 was in error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The Appeal Brief filed on 21 January 2009 has been processed and entered.

The application is being forwarded to the examiner of record to consider the Appeal Brief.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software
571-272-3613

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

rld

Mailed: 5/6/05

In re application of	:	
Bernard Dieny	:	DECISION ON
Serial No. 09/961,255	:	PETITION
Filed: September 25, 2001	:	
For: Spin Valve Device with Spin-Dependent, Specular Electronic Reflection	:	

This is a response to the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT filed June 30, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of May 4, 2004, for failure to timely file a proper reply to the Office letter mailed on July 11, 2003 be withdrawn. The requester asserts that a timely response was filed on December 11, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the USPTO application file reveals that applicant's response was properly filed on December 11, 2003 in view of the fact that the originally filed papers have been located in the USPTO application file. Accordingly, applicants reply in the form of a two month extension of time, a Request for Continued Examination and request for entry of the after final amendment filed October 14, 2003, has been entered. The prior holding of abandonment is hereby vacated, and the application has been returned to pending status. The application shall be returned to the LIE for entering of the Request for Continued Examination. After such is completed, the case will be returned to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

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MAR 25 2009

OFFICE OF PETITIONS

In re Patent No. 6,987,041	:	
Issue Date: January 17, 2006	:	
Application No. 09/961,264	:	ON PETITION
Filed: September 25, 2001	:	
Attorney Docket No. 990355A	:	

This is a decision on the petition under 37 CFR 1.182, filed March 5, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **granted**.

The Office of Data Management is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to the Office of Data Management for issuance of the duplicate Letters Patent.

This patent file is being referred to the Files Repository.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250 ext 119.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/OPPD, South Tower 8th Floor, Room C23
FAX No. (571) 270-9753

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

Cassan Maclean
Suite 401
80 Aberdeen Street
Ottawa, Ontario, Canada K1S 5R5

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AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Dan Dan Yang, et al. :
Application No. 09/961,362 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. 42041-0003 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Corrected Application Papers mailed October 19, 2001. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 20, 2001

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

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

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

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
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WASHINGTON, D.C. 2023
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

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. 09/961,367) **DECISION ON REQUEST FOR**
Filed: September 25, 2001) **WITHDRAWAL AS ATTORNEY**
For: A MECHANISM FOR PREVENTING)
UNNECESSARY TIMEOUTS AND
RETRIES FOR SERVICE REQUESTS
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.

James R. Matthews

JM

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

Sterne, Kessler, Goldstein & Fox PLLC
1100 New York Avenue, N.W.
Washington D.C. 20005

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OFFICE OF PETITIONS

In re Application of :
Gary Lynch et al. :
Application No. 09/961,381 : DECISION ON PETITION
Filed: September 25, 2001 : TO WITHDRAW
Attorney Docket No. 1819.0040001/MAC/LBB : 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 **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 Linda E. Horner.

Linda E. Horner has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OCT 0 2 2002

OFFICE OF PETITIONS

In re Application of
Susanna M. Rybak et al.
Application No. 09/961,400
Filed: September 25, 2001
Attorney Docket No. 018733-1059

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) July 18, 2002.

The petition is **GRANTED**.

A Notice to File Missing Parts was mailed December 18, 2001 requiring *inter alia* a properly signed oath and declaration in compliance with 37 CFR 1.63. In response, the instant petition and a request for a 5 month extension of time were filed.

Petitioners have shown that the non-signing inventors, Susanna M. Rybak and Dianne L. Newton, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petitioners have established, via the statement of petitioner's registered patent counsel, Stephen B. Maebius, and a copy of a letter addressed to Dr. Kenneth A Weber, legal representative for Rybak and Newton, that the Application, Declaration and Power of Attorney, were sent to Dr. Weber for the non-signing inventors. Additionally, petitioners have provided proof that the letter sent to Dr. Weber was in fact received.

The non-signing inventors, however, failed to return an executed declaration. In accepting this petition, the Office is construing the statement from Stephen B. Maebius to mean that petitioner's counsel has first hand knowledge of the sending of the application papers to the non-signing inventors. Petitioners **must** inform the Office if this is not a correct interpretation.

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 declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being returned to the Office of Initial Patent Examination.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

Susanna M. Rybak
7411B Round Hill Road
Frederick, MD 21702

Dianne L. Newton
15904 New Bedford Drive
Rockville, MD 20855

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OCT 0 2 2002

OFFICE OF PETITIONS

In re Application of
Susanna M. Rybak et al.
Application No. 09/961,400
Filed: September 25, 2001
For: IMMUNOCONJUGATES OF TOXINS DIRECTED AGAINST MALIGNANT CELLS

Dear Ms. Rybak and Ms. Newton:

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 Petitions Attorney at (703) 305-4497. 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).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/961,400	09/25/2001	Susanna M. Rybak	018733-1059

CONFIRMATION NO. 6876

22428
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

FORMALITIES LETTER

OC000000007209940

Date Mailed: 12/18/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **710** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 840.**

- This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c) Applicant must provide an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A request to transfer the computer readable form from another application on file at the U.S. Patent and Trademark Office has been submitted as permitted by 37 C.F.R. 1.821(e). However, the request cannot be complied with since there is no compliant CRF present at the United States Patent and Trademark Office. Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 018733/1059

In re patent application of

Susanne M. RYBAK et al.

Serial No. Unknown

Filed:

For: IMMUNOCONJUGATES OF TOXINS DIRECTED AGAINST MALIGNANT CELLS

Group Art Unit: Unknown

Examiner: Unknown

CRFD

STATEMENT REGARDING SUBMISSION OF SEQUENCE LISTING

The computer readable form of the Sequence Listing for this application is to be identical with that filed in Application Number 09/622,613, filed August 17, 2000. In accordance with 37 C.F.R. § 1.821(e), please use the last-filed computer readable form ("CRF") filed in that application as the computer readable form for the instant application. It is understood that the United States Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant application. The Sequence Listing in the present specification contains the same sequence information as found in the CRF of the present application.

Respectfully submitted,

Sept. 25, 2001
Date

Stephen B Maebius
Stephen M. Maebius
Registration No. 35,264

FOLEY & LARDNER
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5109
Telephone: (202) 672-5569

Parent SN 09/622,613 does not have a valid CRF.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY - 4 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Susanna M. Rybak et al	:
Serial No.: 09/961,400	: WITHDRAWAL OF ATTORNEY
Filed: September 25, 2001	:
Attorney Docket No.: 018733-1059	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

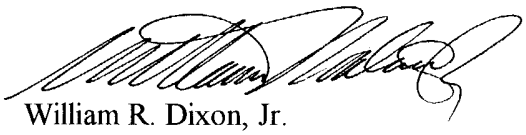
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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Paper No. None

Heller Ehrman White & McAuliffe
Suite 300
1666 K Street, N.W.
Washington DC 20006

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of
Susanna M. Rybak et al.
Application No. 09/961,400
Filed: September 25, 2001
Attorney Docket No. 018733-1059
Title: IMMUNOCONJUGATES OF TOXINS DIRECTED AGAINST MALIGNANT CELLS

DECISION ON PETITION

This is a decision on the petition filed March 30, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 15, 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 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 16, 2004. A notice of abandonment was mailed on March 8, 2004.

With the instant petition, Petitioner has supplied the petition fee and the proper statement of unintentional delay. On January 18, 2005, a continuation application was filed (11/036,364). As such, this petition under 37 C.F.R. §1.137(b) is **GRANTED**. 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 continuing Application No. 11/036,364.

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.

UNITED STATES 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 10-04

JEFFREY R. KUESTER, ESQ.
THOMAS, KAYDEN, HORSTMEYER & RISLEY, L.L.P.
100 GALLERIA PARKWAY, SUITE 1750
ATLANTA GA 30339

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OCT 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Bezner et al.	:	
Application No. 09/961,411	:	DECISION GRANTING PETITION
Filed: 25 September, 2001	:	
Attorney Docket No. 190252-1670	:	

This is a decision on the petition, filed on 13 September, 2004, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 24 September, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

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

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 10 February, 2005, is enclosed herewith.

The revocation and power of attorney filed on 16 July, 2004, is accepted. A copy of the Notice Regarding Change of Power of Attorney and Notice of Acceptance of Power of Attorney is also enclosed herewith.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center 2600 for further processing.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing
Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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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#74

Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

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MAR 1 1 2003

Office of the Director
Group 3600

In re application of
Richard M. Ratliff et al.
Application No. 09/961,419 :
Filed: September 25, 2001 :
For: AVAILABILITY BASED VALUE :
CREATION METHOD AND SYSTEM

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on January 14, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

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

As to condition A), the attorney signing the request does not have power of attorney in this application.

As to condition 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
(703) 605-0586 (facsimile)

SNM/tpl: 3/5/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

AUG 10 2009

OFFICE OF PETITIONS

In re Application of :
James J. Nelson :
Application No. 09/961,483 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. 01-230

This is a decision on the petition, filed August 7, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 26, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3671 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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BLACKWELL SANDERS PEPER MARTIN LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS, MO 63101

COPY MAILED

MAR 14 2005

OFFICE OF PETITIONS

In re Application of :
Vladislav Andeevitch Ryzhkov :
Application No.: 09/961,528 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. 717901.14 :

This is a decision on the petition under 37 CFR 1.182, filed February 16, 2005, to correct the spelling of the inventor's name.

The petition is GRANTED.

USPTO records will be corrected as follows:

> The inventor's name will be changed from " Vladislav Andeevitch Ryzhkov "
> to " Vladislav Andreevitch Ryzhkov"

A corrected Filing Receipt is enclosed.

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

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHLUMBERGER TECHNOLOGY CORPORATION
IP DEPT., WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND TX 77478

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Chang et al. :
Application No. 09/961,605 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. 56.0619CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on November 26, 2004, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on January 3, 2005.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

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

Christina Y. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

WILDMAN, HARROLD, ALLEN & DIXON
225 West Wacker Drive
Chicago, IL 60606

MAIL

JUL 2 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
John HOBART
Application No. 09/961,650
Filed: September 24, 2001
For: INCENTIVE PROGRAM FOR A PEER-TO-PEER NETWORK

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

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

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

The request is signed by Nicolas Pellemans alone and does not contain a clear indication that Mr. Pellemans is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

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
www.uspto.gov

Paper No. 6

MAIL

AUG 0 9 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

WILDMAN, HARROLD, ALLEN & DIXON
225 West Wacker Drive
Chicago, IL 60606

In re Application of:
John HOBART
Application No. 09/961,650
Filed: September 24, 2001
For: INCENTIVE PROGRAM FOR A PEER-TO-PEER NETWORK

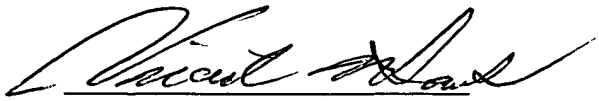
DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

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

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

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

#6
12/12/02

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 12 2002

Paper No. 6

WILDMAN, HARROLD, ALLEN & DIXON
225 West Wacker Drive
Chicago, IL 60606

In re Application of: John HOBART)
Application No. 09/961,650)
Filed: September 24, 2001) **DECISION ON REQUEST FOR**
For: INCENTIVE PROGRAM FOR A) **WITHDRAWAL AS ATTORNEY**
PEER-TO-PEER NETWORK)

This is a decision on the Request To Withdraw from Representation filed December 10, 2002.

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

The request is **GRANTED**.

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

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

cc: Mr. Roger Brulotte/President
Studio Bromont Inc.
807 rue de la Mariakeche, Lachenaie
Quebec, Canada J6W 5H2

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

JAN 31 2003

#5

CHARLES F. SEYBOLDT
19 RIDGEVIEW DRIVE
STANDISH, ME 04084

In re Application of	:	
Robert A. Sayce	:	DECISION ON PETITION
Serial No.: 09/961,657	:	
Filed: September 24, 2001	:	
For: Parallel Ski Training Device	:	

This is in response to applicants' petition filed Septemver 24, 2001 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☑ Petition Granted 37 CFR 1.84(a)(2),(b)(2)

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

W. Gary Jones
Supervisory Patent Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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APPLIED BIOSYSTEMS
500 OLD CONNECTICUT PATH
FRAMINGHAM, MA 01701

COPY MAILED

JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Hyldig-Nielsen : LETTER REGARDING PTA
Application No. 09/961,665 :
Filed: September 24, 2001 :
Atty. Dkt. No.: BP0001-US :

This letter is in response to the inquiry regarding patent term adjustment ("PTA") filed December 22, 2004. The Office thanks patentees for their good faith and candor in bringing this to our attention. No fee is due in connection with this matter.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 397 days as indicated in the Determination of Patent Term Adjustment mailed September 27, 2004.

Applicant states that it appears the instant application may have been more accorded a greater adjustment than that which applicants are entitled. Applicant specifically states that a reduction of 112 days under 37 CFR 1.704(b) is appropriate for applicant's delay in submission of applicant's appeal brief.

A review of the application history reveals an adjustment of 403 days at the time of allowance in accordance with 37 CFR 1.702(a)(s). The adjustment began August 22, 2003, the date that is four months after the date the appeal brief was filed, and ended September 27, 2004, the date of mailing of allowance. See, 37 CFR 1.703(a)(2).

The adjustment 403 days was reduced six days in accordance with 37 CFR 1.704(b) in connection with applicant's reply to the final Office action mailed June 24, 2002. The delay began September 25, 2002, the day after the date that is three months after the date the final Office action was mailed, and ended September 30, 2002, the date of submission of Notice of Appeal.

The period of time referenced by applicant in connection with submission of applicant's appeal brief is not considered a delay in accordance with 37 CFR 1.704(b) as the submission of the appeal brief is not a "reply to any notice or action by the

Office making any rejection, objection, argument, or other request."

However, applicant should be advised that any adjustment under 37 CFR 1.702(b) for failure to issue a patent within three years of the actual filing date of the application is reduced in accordance with 37 CFR 1.703(b)(4) by the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods the number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 1.191 and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

This application 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 (571) 272-3205.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 23 2005

OFFICE OF PETITIONS

APPLIED BIOSYSTEMS
500 OLD CONNECTICUT PATH
FRAMINGHAM MA 01701

In re Application of :
Jens J. Hyldig-Nielsen :
Application No. 09/961,665 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. BP0001-US :

This is a decision on the petition, filed September 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1634 will consider the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : September 23, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Jens J. Hyldig-Nielsen
Application No. :09/961,665
Filed :September 24, 2001

The above-identified application has been assigned Patent No. 6,953,660 and an issue date of October 11, 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 October 11, 2005:

"All reference to Patent No. 6,953,660 to Jens J. Hyldig-Nielsen of Massachusetts for CORRECTIVE METHOD FOR THE DETERMINATIO OF BACTERIA appearing in the Official Gazette of October 11, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 0 6 2002

OFFICE OF PETITIONS

PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

In re Application of :
Chow, et al. :
Application No. 09/961,677 : DECISION GRANTING STATUS
Filed: September 25, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 81674-281403 :
For: IDENTIFYING UNIQUE WEB :
VISITORS BEHIND PROXY SERVERS :

This is in response to the petition under 37 CFR 1.47(a), filed March 4, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Yong J. Chang has 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.

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YONG J. CHANG
2848 NW MODA WAY
HILLSBORO, OR 97124-1350

COPY MAILED

MAY 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Chow, et al. :
Application No. 09/961,677 : LETTER
Filed: September 25, 2001 :
Attorney Docket No. 81674-281403 :
For: IDENTIFYING UNIQUE WEB VISITORS :
BEHIND PROXY SERVERS :
:

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

CC: PILLSBURY WINTHROP LLP
INTELLECTUAL PROPERTY GROUP
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

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 INVENTOR	ATTORNEY DOCKET NO.

EXAMINER	

ART UNIT	PAPER NUMBER
	13

DATE MAILED:

Please find below a communication from the SUPERVISORY EXAMINER in charge of this application.

Commissioner of Patents

DECISION ON PETITION UNDER 37 CFR §1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The petition filed April 28, 2003 under 37 CFR §1.97(d) for consideration of an information disclosure statement filed after allowance has been:

[X] GRANTED.

[ ] DENIED.

[ ] It was filed after payment of the issue fee. See 37 CFR §1.97(d)(2).

[ ] It was filed after the patent grant.

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d) and 1.17(i)(1).

[ ] A proper certification as specified in 37 CFR §§1.97(d) and 1.97(e).

[ ]The information disclosure statement has been placed in the file and made of record but will not be considered by the examiner.

[X] IDS CONSIDERED.

The examiner has considered the IDS. See accompanying copy of PTO 1449, or Paper No._____.

Frank G. Font
Supervisory Patent Examiner
Technology Center 2800

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

Stanley M. Erjavac
Harness Dickey & Pierce
PO Box 828
Bloomfield Hills, MI 48303

COPY MAILED

MAY 24 2002

OFFICE OF PETITIONS

In re Application of :
David M. Markovitz et al. :
Application No. 09/961,696 : ON PETITION
Filed: September 20, 2001 :
Attorney Docket No. 2115-001891 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 19, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 20, 2001.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE IL 60048-5343

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APR 07 2005

OFFICE OF PETITIONS

In re Application of :
Thomas J. Mihm et al. :
Application No. 09/961,718 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. CS 11096 :

This is a decision on the petition, filed March 4, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office Action mailed April 20, 2004. An amendment, filed July 20, 2004 was considered and the applicant was advised in an advisory action mailed August 18, 2004 that the amendment did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned. Accordingly, a Notice of Abandonment was mailed November 10, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of April 20, 2004, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

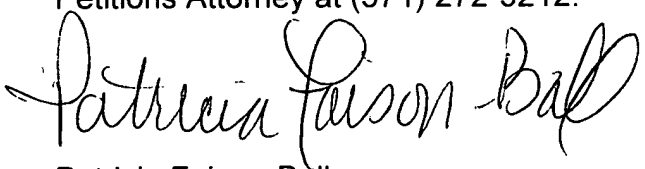
Petitioner must submit a proper reply to the final Office action mailed on April 20, 2004, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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

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

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

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

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE IL 60048-5343

COPY MAILED

MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Thomas J.Mihm et al. :
Application No. 09/961,718 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. CS 11 096 :

This is a decision on the renewed petition, filed April 29, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed April 20, 2004. An amendment, filed July 20, 2004 was considered and the applicant was advised in an advisory action mailed August 18, 2004 that the amendment did not place the application in condition for allowance. No timely response having been filed thereafter, this application became abandoned. Accordingly, a Notice of Abandonment was mailed November 10, 2004. A petition to revive was filed March 4, 2005 and dismissed in a decision mailed April 7, 2005.

Comes now petitioner with this renewed petition.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date

for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

A Request for Continued Examination (RCE) and an amendment are submitted with the petition in response to the Final Office action and in compliance with 37 CFR 1.114. The RCE fee has been charged to deposit account no. 50-2117.

The application is being forwarded to Technology Center 2131 for processing of the RCE and amendment.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LENOVO (US) IP LAW
1009 THINK PLACE
BUILDING ONE, 4TH FLOOR 4B6
MORRISVILLE, NC 27560

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of
Mitsuo HORIUCHI et al.
Application No. 09/961,722
Filed: September 24, 2001
Attorney Docket No. JP920000325US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 24, 2005, which set a shortened statuary period for reply of three (3) months. A three (3) month extension of time under the provisions of CFR 1.136(a) was obtained. Accordingly the application became abandoned on August 25, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $500, and the Appeal Brief and fee of $500; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final office action of February 24, 2005 is accepted as having been unintentionally delayed.

The Office acknowledges receipt of the of the notice of appeal filed on September 16, 2005 and the appeal brief filed November 07, 2005.

The power of attorney filed by the applicant/inventor with the petition on August 27, 2005 has been accepted and made of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2876 for an examiners answer.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **RONALD V. DAVIDGE**
9900 STIRLING ROAD
SUITE 219
COOPER CITY, FL 33024

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

LENOVO (US) IP Law
1009 Think Place
Building One, 4th Floor 4B6
Morrisville, NC 27560

Mail Date: 04/21/2010

Applicant	: Mitsuo Horiuchi	: DECISION ON REQUEST FOR
Patent Number	: 7635081	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/961,722	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **976** 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
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ALEXANDRIA, VA 22313-1450
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DW 1 F-03

Paper No. 10

ORUM & ROTH
53 W JACKSON BLVD
CHICAGO IL 60604-3606

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NOV 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Adams et al. :
Application No. 09/961,740 : ON PETITION
Filed: 24 September, 2001 :
Attorney Docket No. 12272 :

This is a decision on the petition, styled under 37 CFR 1.47(a) and filed on 7 July, 2003, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.[1]

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. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.183."

This application was filed on 24 September, 2001, and named Matthew T. Adams (Adams), Thomas Rogers (Rogers), and Ray Hatfield (Hatfield) as joint inventors, and was accompanied by a signed oath or declaration.

On 3 January, 2003, a non-final Office action was mailed, requiring, *inter alia*, a new oath or declaration signed by all of the inventors because the original oath or declaration did not identify the citizenship, mailing, and residence address of each

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

inventor. A three (3)-month shortened statutory period for reply was specified.

In response, on 7 July, 2003 (certificate of mailing date 1 July, 2003), the present petition was filed, accompanied by an oath or declaration submitted in compliance with 37 CFR 1.63 and 1.67 naming Adams, Rogers, and Hatfield as joint inventors and signed by joint inventors Adams and Rogers. Petitioner's counsel states that although a copy of the supplemental declaration was sent, via Express Mail, to Hatfield with instructions that he sign and return the declaration, the Express Mail letter was refused and Hatfield did not return an executed supplemental declaration.

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.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by both joint inventors, and thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

Petitioners' showing is deficient in that proof of diligent efforts to locate the non-signing inventor have not been made.[2] Specifically, if the Express Mail letter containing the declaration was refused or returned as undeliverable, petitioners must provide a copy of the envelope showing that the letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts having first-hand knowledge of the details.

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

---

[2] MPEP 409.03(d).

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 703.308.6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

ORUM & ROTH
53 W JACKSON BLVD
CHICAGO IL 60604-3606

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DEC 10 2003

OFFICE OF PETITIONS

In re Application of :
Adams et al. :
Application No. 09/961,740 : ON PETITION
Filed: 24 September, 2001 :
Attorney Docket No. 12272 :

This is a decision on the renewed petition, filed on 28 November, 2003, under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.[1]

The petition is **GRANTED**.

In view of the efforts recounted in the petition to obtain the signature of Ray Hatfield, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed 7 July, 2003.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

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

Telephone inquiries related to this decision should be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Catherine Gemrich
Steelcase Development Corporation
6100 East Paris Avenue
Caledonia, MI 49501

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of :
Matthew Adams et al. :
Application No. 09/961,740 : DECISION ON PETITION
Filed: September 24, 2001 : TO WITHDRAW
Attorney Docket No. 12272 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 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 Catherine L. Gemrich.

Catherine Gemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Orum & Roth LLC**
53 W. Jackson Blvd.
Suite 1616
Chicago, IL 60604

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

GERALD R. BLACK
SUITE 160
30590 SOUTHFIELD ROAD
SOUTHFIELD, MI 48076

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DEC 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
William P. Schmidt et al	:	
Application No. 09/961,749	:	ON PETITION
Filed: September 22, 2001	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 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 of Incomplete Nonprovisional Application (Notice) mailed July 29, 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 September 30, 2002.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

CARGILL INCORPORATED
LAW DEPARTMENT
P.O. BOX 5624
MINNEAPOLIS, MN 55440-5624

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JAN 15 2003

OFFICE OF PETITIONS

In re Application of :
Charles Sanderson et al :
Application No. 09/961,790 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. 71507 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed November 23, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 24, 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.

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

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

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

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

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

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

CRAIG N. KILLEN
NELSON MULLINS RILEY & SCARBOROUGH
P.O. BOX 11070
COLUMBIA SC 29211

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JAN 0 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Mark J. Beck
Application No. 09/961,800
Filed: September 24, 2001
Attorney Docket No. 18405/09000

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

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3728 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

Date : January 9, 2004

TO : Director, Office of Publication and Dissemination

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Mark J. Beck
Application No. : 09/961,800
Filed : September 24, 2001

The above-identified application has been assigned Patent No. 6,675,964 and an issue date of January 13, 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 January 13, 2004:

> "All reference to Patent No. 6,675,964 to Mark J. Beck of South Carolina for ALL-TERRAIN VEHICLE SHIPPING PACKAGE appearing in the Official Gazette of January 13, 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, P/OCS, CM1-6A07
Tamara Greene, Crystal Park 3-908

#4
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

JUL 29 2003

MAILED

JUL 29 2003

OFFICE OF THE DIRECTOR
TC 3600

Chassis Tech/Joe Morrow
260 S. Hibbert Street
Mesa, AZ 85210

In re Application of :
Joe Morrow :
Application No. 09/961,806 :
Filed: September 25, 2001 :
For: END ATTACHMENT COMPONENT :
FOR AIR SPRINGS WITH LARGER
OR MULTIPLE PORTS

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's communication, filed in the United States Patent and Trademark Office on March 19, 2003. That communication is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

A review of the file record reveals that an Office action was mailed to applicant at the address of record on October 28, 2002. Since a response to the October 28, 2002 Office action has not been received, the application was held abandoned, although a Notice of abandonment has yet been mailed.

Applicant's petition is not signed by an attorney of record. Thus, it will not be treated on the merits.

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, Alexandria, VA 22313-1450.

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/tpl: 7/18/03

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 12 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 12 2004

OFFICE OF THE DIRECTOR
TC 3600

Chassis Tech/Joe Morrow
260 S. Hibbert Street
Mesa, AZ 85210

In re Application of
Joe Morrow
Application No. 09/961,806
Filed: September 25, 2001
For: END ATTACHMENT COMPONENT FOR AIR SPRINGS WITH LARGER OR MULTIPLE PORTS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's communication, filed in the United States Patent and Trademark Office on September 12, 2003 which has been treated as a renewed petition to withdraw the holding of abandonment.

The petition is **DISMISSED,** pending submission of another renewed petition.

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. Joseph Morrow) 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, fails 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, Alexandria, VA 22313-1450.

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

SNM/cps: 1/8/04

UNITED STATES PATENT AND TRADEMARK OFFICE

#9 DW

JUN 15 2004

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

MAILED

JUN 15 2004

OFFICE OF THE DIRECTOR
TC 3600

Chassis Tech/Joe Morrow
260 S. Hibbert Street
Mesa, AZ 85210

In re Application of
Joe Morrow
Application No. 09/961,806
Filed: September 25, 2001
For: END ATTACHMENT COMPONENT FOR AIR SPRINGS WITH LARGER OR MULTIPLE PORTS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's letter filed in the United States Patent and Trademark Office on March 11, 2004, which has been treated as a renewed petition to withdraw the holding of abandonment.

The petition is **DISMISSED,** pending submission of another renewed petition.

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. Joseph Morrow) 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, fails 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.

The letter filed March 11, 2004 provides a brief overview of how mail is received and who processes the received mail. The file record contains a statement by Melissa Shroud explaining how she receives and distributes the mail based on content. Ms. Shroud states that Patent Office correspondence is immediately given to Heather Anderson. Mr. Morrow indicates in the above letter that Ms. Anderson handles all Patent Office correspondence and keeps the papers separated based on application number.

A statement by Ms. Anderson describing how she normally processes and files the received Patent Office correspondence is required, including copies of any docketing or tracking records used to log papers in and/or to remind her of due dates for responses. Also a copy of the outside file jacket in which the application papers are filed, if available, is required. Since Mr. Morrow states that the received mail is first separated based on content and that Patent Office correspondence is then further separated based on application number, a statement that all file records, both Patent Office records and any non-Patent Office records, have been searched for the missing Office action.

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, Alexandria, VA 22313-1450.

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

RAR/mjz: 6/8/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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#11 DW

FEB 25 2005

MAILED

FEB 25 2005

OFFICE OF THE DIRECTOR
TC 3600

Chassis Tech/Joe Morrow
260 S. Hibbert St.
Mesa, AZ 85210

In re Application of
Joe Morrow
Application No. 09/961,806
Filed: September 25, 2001
For: END ATTACHMENT COMPONENT FOR AIR SPRINGS WITH LARGER OR MULTIPLE PORTS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on August 24, 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 _____.

☒ Proof of Non-receipt, including statements and documentary evidence, submitted August 13, 2004.

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 originally mailed October 28, 2002, based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

KJD/rwg: 2/1/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH J. LAKS
THOMSON LICENSING LLC
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Eskicioglu, Ahmet M. :
Application No. 09/961,835 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. PU 000134 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 22, 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 the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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

Liana Walsh
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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MAY 26 2009

OFFICE OF PETITIONS

LOYAL M. HANSON
HANSON LAW CORPORATION
PO BOX 430
FALLBROOK, CA 92088-0430

In re Application of :
Albert F. RAMIREZ :
Application No. 09/961,851 : DECISION ON PETITION
Filed: March 6, 2006 : TO WITHDRAW
Attorney Docket No. 101105-010 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed May 7, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Kirk A. Buhler does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ALBERT RAMIREZ
5171 RED OAK DRIVE
RIVERSIDE, CA 92509

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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WOLF BLOCK SCHORR & SOLIS-COHEN LLP
1650 ARCH STREET, 22ND FLOOR
PHILADELPHIA, PA 19103-2334

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FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Fux	:	
Application No. 09/961,855	:	ON PETITION
Filed: September 23, 2001	:	
Attorney Docket No. SLE019-001-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 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 29, 2001, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 1, 2002.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

This matter is being referred to Technology Center AU 3673 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

MAILED

OCT 1 3 2005

Technology Center 2100

In re Application of: Lo, et al.
Application No. 09/961,879
Attorney Docket No. 2001 P 17640 US
Filed: 09/24/2001
For: METHOD AND SYSTEM FOR COLLABORATIVELY DEVELOPING PROGRAMMING CODE FOR PROGRAMMABLE CONTROLLERS

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is a decision on the petition under 37 CFR § 1.181, filed September 14, 2005, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed July 19, 2005.

The petition is **DISMISSED**.

RECENT PROSECUTION HISTORY

(1) On February 7, 2005, a non-final Office action, rejecting all pending claims (1-40), was mailed.

(2) On May 30, 2005, a response to the non-final Office action (including canceling claims 1-40 and adding new claims 41-80) and extension of time (one month) were filed.

(3) On July 19, 2005, a final Office action, treating claims 41-80 on new art, was mailed.

(4) On September 14, 2005, an amendment, request for reconsideration and the instant petition were filed.

(5) Note, an advisory action will be mailed concurrently with this decision.

REQUIREMENTS

A petition under 37 CFR §1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181(f) sets forth: any petition under this part not filed within two

months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. Further, when a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, ... it may be required that there have been a proper request for reconsideration (37 CFR §1.111) and a repeated action by the Examiner.

The petition filed on September 14, 2005 includes elements (1) and (2) above, as well as a request for reconsideration. The advisory action mailed herewith, constitutes a repeated action by the Examiner.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the withdrawal of the finality of the July 19, 2005 office action.

OPINION

Petitioner presents the following arguments in support of the position that the Final rejection was premature:

> The (final) Office action rejection of claims 42-52, 54-58, 61-70, 73 and 76, as being indefinite under 35 USC 112, is improper as the Examiner has failed to identify where the indefiniteness resides (MPEP 707.07(d)).

ANALYSIS

The non-final Office action mailed on February 7, 2005, rejected claims 1-40 under sections 35 USC § 101, 35 USC § 112 (2nd) and 35 USC § 103(a). A response to the first Office action was timely filed and received in the Patent and Trademark Office (Office) on May 30, 2005. In the response, all of the pending claims (1-40) were canceled "without prejudice and disclaimer" by Applicant and new claims 41-80 were added. A final Office action was mailed July 19, 2005 rejecting all claims (41-80), again under sections 35 USC § 101, 35 USC § 112 (2nd) and 35 USC § 103(a). The Examiner held that the amendment necessitated the new ground(s) of rejection and made the July 19, 2005 Office action final (see page 4 therein). As per MPEP §706.07 (d), a request for reconsideration for withdrawal of the finality of the Office action was filed simultaneously with the proposed response after final rejection under 37 CFR §1.116, on September 14, 2005. The examiner has issued an advisory action (to be mailed simultaneously with this decision), which denies Applicant's request for reconsideration and entry of the proposed amendment, and maintains the finality of the last Office action (see supporting reasons set forth in the advisory action).

The relevant sections of the M.P.E.P. are set forth below:

> MPEP § 706.07(a) states in part that:
> Under present practice, second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record. Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may
> have been amended to require newly cited art.

> MPEP § 2173 "Claims Must Particularly Point Out and Distinctly Claim the Invention", states in part: The primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent.

A review of the file record indicates that the new ground(s) of rejection presented by the Examiner in the final Office action of July 19, 2005, in response to Applicant's cancellation of the original claims and submission of new claims of varying and different scope from those earlier presented, was in fact necessitated by the new claim limitations presented.

First, it is noted that all originally presented claims 1-40, in response to the Examiner's non-final Office action rejections, as noted under "Remarks" on page 10 of the May 30, 2005 response, were "without prejudice and disclaimer" voluntarily cancelled by Applicant. Second, a comparison of the originally filed independent claims (1, 18, 23, 28 & 32) with the newly submitted independent claims (41, 77, 78, 79, & 80) clearly shows differences in claim limitations and scope (e.g. original claim 1 set forth "A method for collaboratively developing programming code for a programmable controller ..." wherein none of the newly submitted independent claims appear to set forth such method of developing). A change in context in the claims of such magnitude clearly changes the meaning and scope of protection sought.

With respect to Petitioner's position that the (final) Office action rejection of claims (42-52, 54-58, 61-70, 73 and 76) as being indefinite under 35 USC 112, is improper since the Examiner has failed to identify where the indefiniteness resides (MPEP 707.07(d)), the following is offered. Contrary to Petitioner's remarks, a review of the final Office action shows a detailed description corresponding to each of pending independent claims 41 and 77-80 in the Examiner's Office action (see pages 2-3 thereof). The Examiner points to the claim and the corresponding claim language wherein the indefiniteness resides. By definition, and unless dependent claims (i.e. 42-52, 54-58, 61-70, 73 and 76) clarify the indefiniteness or ambiguity of the independent claim from which they depend, they too are indefinite by reason of their dependency. Although, for ease in locating the identified claim language in question, in the future, it is recommended that in addition to the claim number, the Examiner indicate the line number as well to assist Applicant in locating the language identified.

Insofar as Petitioners' arguments are directed to matters of procedure, the examiner may note the arguments, but need not further address them in the advisory action. As to Petitioners' arguments that address the merits of the rejection, and as to whether the examiner has met his burden of proof for a *prima facie* case, such issue is better suited for appeal.

In summary, the changes made to the claims necessitated the new grounds of rejection set forth by the Examiner in the final Office action. Therefore, prosecution of the instant application, including issuance of the final rejection of July 19, 2005 is determined to be proper and consistent with Office policy and practice. In addition, the Examiner's refusal to enter the proposed amendment filed September 14, 2005 is also consistent with Office policy and practice.

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the final Office action of July 19, 2005 is **DISMISSED**. Any request for reconsideration of this decision must be filed within two months of the mailing date of this decision.

The application file is being forwarded to the technology support staff for mailing of the instant decision and advisory action.

Any inquiries related to this decision may be directed to Specials Program Examiner Brian Johnson at (571) 272-3595.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Hancock, Saltz, Abrahams, and	:	DECISION REFUSING STATUS
Hikmet	:	UNDER 37 CFR 1.47(a)
Application Number: 09/961883	:	
Filing Date: 09/24/2001	:	
Attorney Docket Number:	:	
72167.000568	:	

This is in response to the petition under 37 CFR 1.47(a), filed on March 19, 2002.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on September 24, 2001, without an executed oath or declaration.

Accordingly, on October 22, 2001, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration, and a surcharge for its late filing. Replacement drawings were also required.

On March 19, 2002, a three (3) month extension of time was filed, accompanied by the replacement drawings, and a declaration pursuant to 37 CFR 1.63 naming Peter Hancock, Jeffrey Saltz,

Andrew Abrahams, and Senay Hikmet as joint inventors, signed by all joint inventors except Hancock on behalf of themselves and non-signing joint inventor Hancock. The present petition under 37 CFR 1.47(a), petition fee, and surcharge were also filed.

Petitioners assert that a letter containing the assignment and declaration was sent to the non-signing inventor's home address, but was returned as unclaimed. Additionally, petitioners state that an additional letter containing the assignment and declaration were sent to the non-signing inventor's business address. A copy of a certified mail receipt showing receipt of the letter by "P. WALKER" has 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 (1).

The petition must be dismissed because sufficient proof has not been provided that the inventor was sent or given a copy of the application.

In regards to item (1), petitioners have not provided proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] In order for a Rule 47 petition to be granted, the inventor(s) **must** be afforded an opportunity to review the application.[2] 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,

---

[1] MPEP 409.03(d).

[2] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

including claims, drawings, if any, and the declaration) to the non-signing inventor(s) or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

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 facts.

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.

It is noted that a brief Internet search reveals that the non-signing inventor may now be residing in New York City, NY. Petitioners should attempt to determine the current address of the non-signing inventor. If a current address is determined, petitioners should provide a copy of the application to the non-signing inventor at that address.

If an inventor(s) cannot be reached at his or her last known address, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate that inventor, send or give a copy of the application papers to him or her, and request that he or she sign and return the declaration. 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.

Furthermore, with regard to the mailing to the non-signing inventor's business address, it is again noted that petitioners have not established that the application as filed (specification, including the claims, drawings if any, and the declaration) were sent. Also, the showing of record is that the papers were not received by the non-signing inventor, but by

another individual, and it is unclear whether the non-signing inventor ever received the mailing.

In this regard, 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.[3]

If repeated attempts to contact an inventor(s) by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that an inventor(s) cannot be found despite diligent efforts.

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[3] MPEP 409.03(d)(II).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW May-08

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:
Hancock et al.	: DECISION NOTING JOINDER
Application Number: 09/961883	: OF INVENTOR AND PETITION
Filing Date: 09/24/2001	: UNDER 37 CFR 1.47(a) MOOT
Attorney Docket Number:	:
72167.000568	:

Papers filed on May 8, 2008, in response to the decision dismissing petition mailed on April 17, 2008, included a Declaration signed by the previously non-signing inventor, in compliance with 37 CFR 1.63.

The petition is **dismissed as moot**.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be referred to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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MAY 21 2008

OFFICE OF PETITIONS

In re Application of	:
Hancock et al.	: DECISION NOTING JOINDER
Application Number: 09/961883	: OF INVENTOR AND PETITION
Filing Date: 09/24/2001	: UNDER 37 CFR 1.47(a) MOOT
Attorney Docket Number:	:
72167.000568	:

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This application will be referred to the Office of Data Management for further processing.

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

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AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK, NY 10016

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OCT 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Carpay, et al.	:	
Application No. 09/961,903	:	NOTICE
Filed: September 24, 2001	:	
Attorney Docket No. DVME-1008USDIV1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed July 28, 2004.

As set forth at 37 CFR 1.28(c), the deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full. Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted.**

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

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

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

Alesia M. Brown
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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Knoble & Yoshida
Eight Penn Center
Suite 1350
1628 John F. Kennedy Blvd.
Philadelphia, PA 19103

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OCT 28 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Eysunori Fujita
Application No. 09/961,929 : DECISION ON REQUEST
Filed: September 24, 2001 : FOR WITHDRAWAL OF
For: VEHICLE SEATS : ATTORNEY

This is a decision on the request filed on September 20, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. There is no fee for this request.

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 A) above.

There is a single attorney signing the request. There are currently four attorneys of record in this application. All must sign or one must clearly sign on behalf of the others. The reference to a customer number appears to be in error. What is listed in the request appears to be a Deposit Account number.

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

snm: 10/22/02

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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#12

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Philadelphia, PA 19103

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APR 2 2003

Office of the Director
Group 3600

In re application of
Etsunori Fujita et al.
Application No. 09/961,929 : DECISION ON REQUEST
Filed: September 24, 2001 : FOR WITHDRAWAL OF
For: VEHICLE SEAT : ATTORNEY

This is a decision on the renewed request filed on November 15, 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 petition is sincerely regretted.

The request is **NOT APPROVED**.

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

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

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

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

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

The attorneys associated with Customer Number 21302 do not correspond with those named in the Power of Attorney, thus creating confusion as to who is withdrawing. There are currently four attorneys of record in this application based upon the original declaration. The reference to a customer number appears to not include one of the attorneys of record. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

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

KJD/tpl: 3/28/03

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#16

Steinberg & Raskin, P.C.
1140 Avenue of the Americas, 15th Floor
New York, NY 10036-5803

In re Application of	:
Etsunori Fujita et al.	:
Application No. 09/961,929	: DECISION DISMISSING REQUEST
Filed: September 24, 2001	:
Attorney Docket No. MUGI-0009	:

This is a response to the "STATEMENT UNDER 37 CFR 1.6(e)" filed August 20, 2003, requesting, in effect, that the accompanying amendment be considered filed on August 14, 2003.

Applicants state that "this amendment would have been filed on August 14, 2003 if it were not for the interruption in the United States Postal Service."

The USPTO designated the interruption in the service of the USPS that occurred as a result of the power outage on Thursday, August 14, 2003, in the Northeast and Midwest United States as a postal service interruption and an emergency within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). On August 15, 2003, a notice was posted on the USPTO website which indicated that correspondence that would have been filed with the USPTO under 37 CFR 1.10 during the USPS service interruption, but which was not filed due to the USPS service interruption, should be promptly filed after the termination of the interruption with a statement that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service. Thereafter, on August 19, 2003, a second notice was posted on the USPTO website which indicated that the USPTO had terminated the designation of this interruption in the service of the USPS as postal service interruption and an emergency within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). This notice stated that correspondence that would have been filed with the USPTO under 37 CFR 1.10 on August 14, 2003, through August 16, 2003, but which was not filed due to the USPS service interruption, should now be filed with the USPTO under 37 CFR 1.10 with a statement that the correspondence would have been deposited with the USPS on August 14, 2003, August 15, 2003, or August 16, 2003, but for the designated interruption in the "Express Mail" service of the USPS. This notice also made it clear that the provisions of 35 U.S.C. 21(a) and 37 CFR 1.6(e) apply only to postal service interruptions and emergencies and not to other exigencies.

The amendment along with the statement and a petition for a one month extension of time was

mailed by first class mail on August 18, 2003, and received in the Office on August 20, 2003. The correspondence includes a certificate of mailing stating that this correspondence is being deposited with the United States Postal Service as first class mail on August 18, 2003. There is no evidence that the correspondence would have been filed under 37 CFR 1.10 by Express Mail but for the designated interruption or emergency in "Express Mail" service. The power outage did not prevent correspondence from being deposited in first class mail on August 14, 2003, through August 16, 2003.

The request is dismissed.

After the mailing of this decision, the Office will charge $300.00 ($410.00 owed -$110.00 paid) for the remainder of the fee due for a two month extension of time to counsel's Deposit Account No. 50-0518 as authorized in the petition for extension of time.

The application is being forwarded to Technology Center Art Unit 3636 for consideration of the amendment.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
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JUL 09 2007

Technology Center 2100

Seimens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin NJ 08830

In re Application of:
George Lo
Application No. 09/961,931
Filed: September 24, 2001
For: Method and Apparatus for Programming Programmable Controllers and Generating Configuration Data from a Centralized Server

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed January 30, 2006 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Final rejection mailed November 30, 2005.

The petition is **DISMISSED AS MOOT**.

On January 30, 2006, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Final Office action mailed November 30, 2005. In the petition, applicant's counsel alleged that the amendment of September 14, 2005 would not necessitate a new grounds of rejection of claims 40-43 under 35 U.S.C. § 103 including Larson (Patent Number 6,369,836) and that Larson was additionally not cited on a IDS with a certificate and fee; thus rendering the Final Office action premature.

On March 9, 2006, an office action was mailed out indicating that the finality of the November 30, 2005 action is withdrawn.

Accordingly, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3964.

John Follansbee
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin NJ 08830

MAIL

MAR 23 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of: Lo
Application No. 09/961,931
Attorney Docket No. 2001P17565US
Filed: September 24, 2001
For: METHOD AND APPARATUS FOR PROGRAMMING PROGRAMMABLE CONTROLLERS AND GENERATING CONFIGURATION DATA FROM A CENTRALIZED SERVER

DECISION ON PETITION TO WITHDRAWN FINALITY UNDER 37 CFR §1.181

This is a decision on the petition filed November 3, 2008 under 37 C.F.R. §1.181 to withdraw the finality of the office action mailed September 3, 2008.

The petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

January 22, 2008	The Examiner issued a Non-Final Rejection.
May 7, 2008	The applicant filed an amendment including a 37 CFR §1.132 affidavit.
September 3, 2008	The Examiner issued a Final Rejection in which asserted that the affidavit was improperly filed.
November 3, 2008	The application filed this petition.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.132 states:

When any claim of an application or a patent under reexamination is rejected or objected to, any evidence submitted to traverse the rejection or objection on a basis not otherwise provided for must be by way of an oath or declaration under this section.

MPEP § 716.01 states:
The following criteria are applicable to all evidence traversing rejections submitted by applicants, including affidavits or declarations submitted under 37 CFR 1.132:

(A) Timeliness.

Evidence traversing rejections must be timely or seasonably filed to be entered and entitled to consideration. In re Rothermel, 276 F.2d 393, 125 USPQ 328 (CCPA 1960).

Affidavits and declarations submitted under 37 CFR 1.132 and other evidence traversing rejections are considered timely if submitted:

(1)prior to a final rejection,

(2)before appeal in an application not having a final rejection, *

(3)after final rejection, but before or on the same date of filing an appeal, upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e); or

(4)after the prosecution is closed (e.g., after a final rejection, after appeal, or after allowance) if applicant files the affidavit or other evidence with a request for continued examination (RCE) under 37 CFR 1.114 in a utility or plant application filed on or after June 8, 1995; or a continued prosecution application (CPA) under 37 CFR 1.53(d) in a design application.

For affidavits or declarations under 37 CFR 1.132 filed after appeal, see 37 CFR 41.33(d) and MPEP § 1206 and § 1211.03.

(B)Consideration of evidence.

Evidence traversing rejections, when timely presented, must be considered by the examiner whenever present. All entered affidavits, declarations, and other evidence traversing rejections are acknowledged and commented upon by the examiner in the next succeeding action. The extent of the commentary depends on the action taken by the examiner. Where an examiner holds that the evidence is sufficient to overcome the prima facie case, the comments should be consistent with the guidelines for statements of reasons for allowance. See MPEP § 1302.14. Where the evidence is insufficient to overcome the rejection, the examiner must specifically explain why the evidence is insufficient. General statements such as "the declaration lacks technical validity" or "the evidence is not commensurate with the scope of the claims" without an explanation supporting such findings are insufficient.

DECISION

The 37 CFR § 1.132 affidavit filed May 5, 2008 was filed after the Non-Final Rejection issued January 22, 2008, which makes the filing timely. *See* MPEP § 716.01. When an affidavit is timely, the examiner must consider the evidence in the next

succeeding action. *See* MPEP § 716.01. In the examiner's Final Rejection issued September 3, 2008, the examiner did consider the evidence contained in the affidavit under the rationale that the affidavit "cannot be relied upon to provide supporting evidence of non-obviousness for one skilled in the art." That statement is incorrect, rule 37 CFR § 1.132 affidavits allow for any evidence to be entered that traverses an rejection or objection. Furthermore, MPEP § 716.01(a) details the requirements an examiner must consider when considering evidence in a 132 affidavit supporting non-obviousness. In the Final Rejection, the examiner failed to provide proper consideration of the evidence provided in the 37 CFR § 1.132 affidavit filed May 5, 2007.

For the above reasons, the petition is **GRANTED**.

The finality of the last office action is withdrawn and the application with be forwarded to the examiner to properly consider the affidavit.

/Kim Huynh/

Kim Huynh
Work Group QAS
Technology Center 2400

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PATENT DEPARTMENT
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JUL 0 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Venit et al.	:	
Application No. 09/961,932	:	ON PETITION
Filed: September 24, 2001	:	
Attorney Docket No. HA0745 NP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 31, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal (with requisite fee); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The Notice of Appeal filed March 31, 2006, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 1600 for further processing.

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

Liana Chase
Petitions Examiner
Office of Petitions

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Paper No. 26

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MAY 28 2004

Director's Office
Group 3700

KOLISCH HARTWELL, P.C.
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In re Application of
Bidner, et al.
Application No.: 09/961,942
Filed: September 25, 2001
Attorney Docket No.: 200-0393
For: METHOD FOR DETERMINING
EMISSION CONTROL SYSTEM OPERABILITY

ON PETITION

This is a decision on the petitions, filed October 27, 2003, under 37 CFR 1.181(a)(3), 1.182, and 1.183, requesting (*inter alia*) that: (1) the above-identified application be assigned to an examiner other than Tu Minh Nguyen (Nguyen); (2) future applications filed by Ford Global Technologies, Inc./ Ford Global Technologies LLC (FGTI/FGTL) be assigned to an examiner other than Nguyen; (3) the United States Patent and Trademarks Office (USPTO) conduct a hearing to permit FGTL/FGTI to inter alia establish that examiner Nguyen has acted in an arbitrary and capricious manner in examining applications filed by FGTL/FGTI; and (4) keep the instant petition and other papers related to the instant petition confidential until prosecution in the above-identified application and all other FGTL/FGTI applications mentioned in the instant petition is terminated.

The petition to assign the above-identified application, and future applications filed by FGTI/FGTL, to an examiner other than Nguyen is **DENIED**.

The petition to conduct a hearing to permit FGTL/FGTI to, *inter alia*, establish that examiner Nguyen has acted in an arbitrary and capricious manner in examining applications filed by FGTL/FGTI is **DENIED**.

The petition to keep the instant petition and other papers related to the instant petition confidential is **GRANTED** to the extent that FGTL/FGTI is given a time period of 60 days (non-extendable) within which to file a petition under 37 CFR 1.59 to expunge the instant petition and accompany documents from the file of the above-identified application.

FGTI/FGTL specifically alleges that examiner Nguyen: (1) maintains meritless rejections until FGTI/FGTL is forced to appeal briefs, and then examiner Nguyen withdraws the rejections and allows the claims; and (2) frequently engages in piecemeal prosecution and delays examination on the merits until after FGTI/FGTL is forced to file an appeal brief, in that examiner Nguyen routinely maintains meritless final rejections, requiring FGTI/FGTL to file appeal briefs, and then examiner Nguyen withdraws the rejections and reopens prosecution citing new references and making new statutory grounds of rejection or new interpretation of the prior art. FGTI/FGTL specifically refers to situations in which examiner Nguyen is alleged to have: (1) reopened prosecution after a decision by the Board of Patent Appeal and Interferences (BPAI) without approval of the Technology Center Group Director in violation of 37 CFR 1.198 and rejected a claim citing a new reference for the first time; (2) substituted a new theory of unpatentablility, subsequent to a BPAI decision reversing examiner Nguyen's rejections and entering new rejections based upon the prior art cited by examiner Nguyen, now on the basis of prior art that examiner Nguyen apparently failed to review, despite the BPAI having ordered examiner Nguyen to review prior to the BPAI docketing the appeal; and (3) denied FGTI/FGTL's right to examination by relying on Official notice instead of basing rejections on prior art disclosure and by making contradictory assertions concerning the factual disclosure of cited prior art.

FGTI/FGTL argues that examiner Nguyen's actions which could perhaps be explained in isolated instances (such as reopening prosecution after an appeal brief is filed, and conducting a new prior art search to pose new rejections) are an abuse of discretion when they are routinely, arbitrarily and capriciously repeated, and that examiner Nguyen has intentionally and improperly extended prosecution by disregarding and abusing USPTO's rules and procedure. FGTI/FGTL cites *In re Ovshinsky*, 24 USPQ2d 1241 (Comm'r Pat. 1992), in support of its argument that an evidentiary hearing is required to ascertain the nature and extent of improper and biased actions committed by examiner Nguyen against FGTI/FGTL.

The petition and accompanying documents have been fully considered; however, they are not persuasive that either the requested evidentiary hearing is warranted, or that the circumstances justify the removal of examiner Nguyen from the above-identified application or any other applications assigned to FGTI/FGTL.

As a preliminary matter, it is noted that petitioner requests that all pending applications be reassigned to an examiner other than Nguyen, but has only filed a petition in three applications. Petitioner is reminded that each application file must be complete in itself. Therefore, a separate copy of every paper to be filed in a patent application must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical 37 CFR 1.4(b). Because petitioner has not complied with 37 CFR 1.4(b), the issues presented in the petition will only be considered in the above-identified application and the other two applications in which petitions were filed.

FGTI/FGTL cites *Ovshinsky* as support for its request that a hearing be conducted on the issue of possible bias by examiner Nguyen. In *Ovshinsky*, the assignee alleged that the examiner's granting of a request for reexamination in 1990 was motivated by personal bias and petitioned for removal of the examiner under 37 CFR 1.182 and 1.183. The principal allegations of examiner bias related to several derogatory remarks about the inventor and the invention purportedly made during an interview conducted five years earlier (in 1985) during the prosecution of an application for patent (different than the patent under reexamination).

FGTI/FGTL states that in *Ovshinsky*, a hearing was required to provide a complete administrative record on the issue of examiner bias, including a finding of facts regarding both the 1985 interview and the 1990 reexamination. In *Ovshinsky*, the entire administrative record was reviewed, and faced with contradictory and irreconcilable versions of the 1985 interview by USPTO personnel and Ovshinsky's representatives (in *Ovshinsky* there was an extremely significant factual dispute regarding the tenor and contents of the 1985 interview), a hearing was ordered to resolve the discrepancies in these divergent versions and to make a complete record on the issue of examiner bias. *See Ovshinsky*, 24 USPQ2d at 1244. The controverted alleged derogatory comments in the 1985 interview were the catalyst for the review of the examiner's actions in later proceedings/applications.
In the instant petition, FGTI/FGTL has not presented an adequate threshold showing warranting further investigation into whether examiner Nguyen has any bias against FGTI/FGTL. In *Ovshinsky*, the assignee alleged that the examiner of record disparaged the scientific credibility of the inventor, belittled the invention, and laughed derisively when patentee's counsel addressed the merits of the invention or merely mentioned the inventor's name. One of the assignee's representatives alleged that the examiner referred to the inventor as a charlatan. *See Ovshinsky*, 24 USPQ2d at 1243. FGTI/FGTL (in contrast to *Ovshinsky)* has made no allegations of disparaging oral comments by examiner Nguyen regarding the invention or the inventors. Further, FGTI/FGTL has made no allegations of derogatory written comments by examiner Nguyen regarding the invention or the inventors. A review of the file wrappers of the available FGTI/FGTL application files where Nguyen is examiner of record further reveals no comments (*e.g.*, no derogatory annotations in the margins) on par with those at issue in *Ovshinsky*.

Because FGTI/FGTL has not provided evidence of alleged overt bias similar to the kind found in *Ovshinsky*, FGTI/FGTL relies on purported patterns of behaviors and isolated incidents to support its allegation of bias. FGTI/FGTL states that an evidentiary hearing is required to provide a complete administrative record, including findings with respect to the alleged impropriety of each and every procedural violation and irregularity in all applications referenced in the petition. FGTI/FGTL desires, in essence, an open-ended investigation into all of Nguyen's examination choices that FGTI/FGTL views as questionable. In contrast, *Ovshinsky* involved an investigation of limited scope, conducted due to allegations of overt bias. In *Ovshinsky*, there was a specific event that triggered the unusual and extraordinary hearing on examiner bias.

In essence, FGTI/FGTL has requested a broad investigation of examiner bias, based not on a precipitating event that if verified might lead to a conclusion that the examiner was biased, but on a general opinion as to the correctness of Nguyen's actions during the examination of applications assigned to FGTI/FGTL. *Ovshinsky* does not support the granting of such a request. As noted in *Ovshinsky*, the issue is not whether the perceptions of petitioner and its representative regarding alleged bias are reasonable; rather the issue is: whether petitioner has demonstrated bias on the part of examiner Nguyen. For the reasons given above, petitioner has failed to adequately demonstrate that there is a reasonable basis for a further inquiry into whether Nguyen actions during the examination of applications assigned to FGTI/FGTL are the result of a bias against FGTI/FGTL.

Regarding petitioner's assertion that a hearing into examiner bias and removal of examiner Nguyen are the only available avenues for relief, petitioner is reminded that the remedy for improper rejections is appeal to the BPAI (37 CFR 1.191(a)) and the remedy for other improper examiner actions is petition (37 CFR 1.181(a)). These are adequate remedies to address petitioner's concerns Nguyen's actions during the examination of the applications assigned to FGTI/FGTL.

The instant petition will be retained separate from the file of the above-identified application in the Office of Petitions for 60 days (non-extendable) from the mail date of the decision in order to afford FGTI/FGTL an opportunity to file a petition under 37 CFR 1.59 to expunge the instant petition and accompany documents from the file of the above-identified application.

There is no indication that the attorney who submitted the instant petition was ever empowered to prosecute the instant application. If the attorney who submitted the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to the address listed on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The above-identified application is being retained in Technology Center 3700 for further processing. If no reply has been filed to the outstanding Office action mailed August 28, 2003, it would appear that this application stands abandoned. Note 37 CFR 1.181(f), first sentence.

/Richard A. Bertsch/

Richard A. Bertsch
Director, Technology Center 3700

cc: KENNETH J. BURCHFIEL
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Paper No. 31

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SEP 1 0 2004

Director's Office
Group 3700

In re Application of
Bidner, et al.
Application No.: 09/961,942
Filed: September 25, 2001
Attorney Docket No.: 200-0393
For: METHOD FOR DETERMINING
EMISSION CONTROL SYSTEM OPERABILITY

ON RECONSIDERATION

On October 27, 2003, petitioner Ford Global Technologies, Inc./ Ford Global Technologies LLC (FGTI/FGTL) filed a petition under 37 CFR 1.181(a)(3), 1.182, and 1.183, requesting (*inter alia*) that: (1) the above-identified application be assigned to an examiner other than Tu Minh Nguyen (Nguyen); (2) future applications filed by FGTI/FGTL be assigned to an examiner other than Nguyen; (3) the United States Patent and Trademarks Office (USPTO) conduct a hearing to permit FGTL/FGTI to establish (*inter alia*) that examiner Nguyen has acted in an arbitrary and capricious manner in examining applications filed by FGTL/FGTI; and (4) keep the instant petition and other papers related to the instant petition confidential until prosecution in the above-identified application and all other FGTL/FGTI applications mentioned in the instant petition is terminated. In a decision dated May 28, 2004, the petition was denied with respect to all requested relief save only the request to keep the petition and papers related to the petition confidential. That request was granted to the extent that the papers would be kept confidential for a time period of 60 days, not subject to extension of time, to permit FGTL/FGTI to file a petition to expunge the papers under 37 CFR 1.59.

FGTL/FGTI now requests reconsideration of the May 28, 2004 decision, again citing 37 CFR 1.181(a)(3), 1.182 and 1.183, requesting that the Director make finding of facts regarding examiner Nguyen's actions in the present application, specifically as identified in paragraphs 29-39 of the original petition. Petitioner states that it will not file a petition to expunge.

The request for reconsideration is granted to the extent that the decision dated May 28, 2004 has been reviewed in light of the application record, but with respect to modifying the decision in any way, the request for reconsideration is **DENIED**.

In the original petition, FGTI/FGTL specifically alleged that examiner Nguyen: (1) maintains meritless rejections until FGTI/FGTL is forced to file appeal briefs, and then examiner Nguyen withdraws the rejections and allows the claims; and (2) frequently engages in piecemeal prosecution and delays examination on the merits until after FGTI/FGTL is forced to file an appeal brief, in that examiner Nguyen routinely maintains meritless final rejections, requiring FGTI/FGTL to file appeal briefs, and then examiner Nguyen withdraws the rejections and reopens prosecution citing new references and making new statutory grounds of rejection or new interpretation of the prior art. FGTI/FGTL specifically refers to situations in which examiner Nguyen is alleged to have: (1) reopened prosecution after a decision by the Board of Patent Appeal and Interferences (BPAI) without approval of the Technology Center Group Director in violation of 37 CFR 1.198 and rejected a claim citing a new reference for the first time; (2) substituted a new theory of unpatentablility, subsequent to a BPAI decision reversing examiner Nguyen's rejections and entering new rejections based upon the prior art cited by examiner Nguyen, now on the basis of prior art that examiner Nguyen apparently failed to review, despite the BPAI

having ordered examiner Nguyen to review prior to the BPAI docketing the appeal; and (3) denied FGTI/FGTL's right to examination by relying on Official notice instead of basing rejections on prior art disclosure and by making contradictory assertions concerning the factual disclosure of cited prior art. FGTI/FGTL requested an evidentiary hearing based upon *In re Ovshinsky*, 24 USPQ2d 1241 (Comm'r Pat. 1992) in order to ascertain the nature and extent of improper and biased actions committed by examiner Nguyen against FGTI/FGTL.

The requested relief was denied because FGTI/FGTL had not presented an adequate threshold showing of bias on the part of examiner Nguyen that would have warranted further investigation into whether examiner Nguyen is in fact biased against FGTI/FGTL. The absence of such showing distinguished the instant record from the facts of record in *Ovshinsky*. In the absence of evidence amounting to an adequate threshold showing of bias on the part of examiner Nguyen, FGTL/FGTI further relied upon a request for an evidentiary hearing to investigate each and every allegation of impropriety with respect to actions taken in a number of other FGTL/FGTI applications in order provide an administrative record regarding the alleged impropriety of each and every alleged procedural violation and irregularity in all of the applications relied upon in the petition. This relief was denied because it amounted to a request for an open-ended investigation into all of examiner Nguyen's examining choices that FGTL/FGTI might regard as being questionable, still without a threshold showing of bias as per *Ovshinsky*, based upon the opinion of FGTL/FGTI that examiner Nguyen's actions in certain patent applications of FGTL/FGTI were incorrect.

On reconsideration, FGTI/FGTL is asking for specific findings of fact to be made *vis-à-vis* a subset of actions by examiner Nguyen listed in paragraphs 29-39 of the original petition.

Initially, it does not appear that this specific relief was requested in the original petition; rather, the original petition relied upon a recitation of alleged errors and improprieties in a large number of FGTL/FGTI applications as a basis for the relief requested in the original petition. FGTL/FGTI requested relief that was substantially broader than the request for findings of fact presented in the request for reconsideration; see the first paragraph of the instant decision on reconsideration. Therefore, it is arguable that there is no basis for granting the relief requested on reconsideration because it differs from the relief specifically requested in the original petition.

Even if it is regarded that the relief now requested is implicit in the relief requested in the original petition, FGTL/FGTI has nevertheless still failed to make a threshold showing of bias on the part of examiner Nguyen that would warrant the relief now requested. It would seem that FGTL/FGTI, having formed an opinion that examiner Nguyen's work is deficient both as to procedure and as to the merits of patentability, is requesting an investigation to support its conclusion that this deficiency is a result of bias on the part of examiner Nguyen, rather than presenting evidence of bias on examiner Nguyen's part as required in *Ovshinsky*, in order to support its request for a global inquiry into the motives underlying the examiner's actions. However, it is far from clear that any particular error, or pattern of errors, that might be found in the record would be explainable only as resulting from bias on the part of examiner Nguyen. For example, examiner Nguyen's supervisor, who is a Primary Examiner, countersigned the action complained of in paragraph 29 of the original petition. Would this raise a presumption that the Primary Examiner is also biased against FGTL/FGTI? The obvious answer to this question demonstrates that even assuming *arguendo* that some of the actions listed in paragraphs 29-39 of the original petition were found to be erroneous upon review, it is not clear that this would establish a pattern of bias on the part of examiner Nguyen as the sole logical conclusion that could be reached. As discussed in the decision on petition dated May 28, 2004, *Ovshinsky* states that the question is not whether the perceptions of bias are reasonable; rather the issue is whether petitioner has demonstrated bias on the part of the examiner. Even agreement with one or more of petitioner's allegations of procedural impropriety and/or errors on the issue of patentability determinations in light of the prior art would simply not show that the alleged bias on the part of examiner Nguyen amounts to more than a perception on the part of FGTL/FGTI. As discussed in the decision on petition dated May 28, 2004, *Ovshinsky* requires evidence of bias as a prerequisite to there being a reasonable basis for an investigation of the sort requested by FGTL/FGTI.

As was also discussed in the decision on petition dated May 28, 2004, there is no basis for concluding that the relief requested in the original petition, or upon reconsideration, is the only available remedy for the sorts of "errors" alleged to exist by petitioner. To the contrary, appeal and petition remedies are available, and were available to FGTL/FGTI. Simply put, to the extent that any given action regarding patentability is considered to be erroneous by an applicant for patent, the remedy lies with appeal to the Board of Patent Appeals and Interferences, 35 U.S.C. § 134; 37 CFR 1.191. To the extent that an action by an examiner is considered by an applicant for patent to be procedurally erroneous, including an action in which an examiner reopens prosecution after appeal without complying with the procedural requirements for so doing, the remedy is to file, **within the time set by regulation for doing so**, a petition to the Director specifying the alleged error and requesting relief therefrom, 35 U.S.C. § 3; 37 CFR 1.181. Neither the original petition filed on October 27, 2003 nor the instant request for reconsideration was such a petition, each being directed to a plurality of separate alleged "errors" in a number of different actions in a plurality of patent applications, rather than to a specific erroneous action (which might include a plurality of errors) in a specific application, and each having been filed well

outside of the time set by filing a petition with respect to a single allegedly erroneous action in a given specific patent application.

Having failed to provide evidence amounting to a threshold showing of bias as discussed in *Ovshinsky*, FGTI/FGTL cannot now substitute the instant request for reconsideration (or, for that matter, the originally filed petition) for the timely taking of action to have a specific allegedly improper action in a given patent application examined by examiner Nguyen subjected to supervisory review. Investigating the actions listed in paragraphs 29-39 as a result of this request for reconsideration would amount to doing just that. Neither can FGTL/FGTI convincingly argue that it cannot obtain adequate relief absent an investigation into the examiner's motives and thought processes with respect to a set of past actions promulgated by the examiner (and the examiner's supervisor) simply because FGTL/FGTI did not take timely action to have these allegedly improper actions reviewed in the manner provided by law, regulation, and the procedural guidelines for the implementation thereof as established in the Manual of Patent Procedure. It would seem to be obvious that timely supervisory review of an action regarded as being improper would go far in educating an examiner (and/or a first line supervisory) who may be taking a procedurally erroneous action (or series of actions) in the innocent, (that is, unbiased), belief that the action (or actions) were proper. It is possible for people to make a mistake, or even a series of mistakes, without bias being the basis for the mistake(s). To date, FGTL/FGTI has presented no evidence that establishes bias on the part of examiner Nguyen.

It is noted that the original reply to the August 28, 2003 Office action has now been located, and will be entered in the record as paper No. 27. The facsimile copy of the reply which was filed concurrently with the instant request for reconsideration will be discarded, 37 CFR 1.4(b). A paper has been filed on October 30, 2003 appointing Kenneth J. Burchfiel as an associate attorney/agent, and an authorization to act in a representative capacity was filed on July 28, 2004. The associate power of attorney will be endorsed into the file as paper No. 28, but will have no effect since it appears to have been "granted" by other than a principal attorney/agent of record. The authorization to act in a representative capacity will be endorsed into the record as paper No. 29, but appears to do no more than is otherwise permitted by 37 CFR 1.34 (amended May 26, 2004, effective June 25, 2004). The correspondence address is unaffected by entry of the paper. As there apparently has been no power of attorney in favor of the attorney who filed this request for reconsideration, and no change of address in his favor, a copy of this decision is **not** being mailed to him. See Decision on Petition dated May 28, 2004, page 3, penultimate paragraph.

Richard A. Bertsch
Director, Technology Center 3700

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In re Application of	:
MARKOVSKY et al	:
Serial No.: 09/961,998	: Decision on Petition
Filing Date: 24 September 2001	:
Attorney Docket No. 0656-013US8	:

This letter is in response to the Petition under 37 CFR 1.181, filed on 19 February 2004, to for the withdrawal of finality of the office Action mailed 16 December 2003.

BACKGROUND

A review of the file history shows that Applicants filed an Amendment on 25 September 2003 and the Office mailed a Final rejection on 16 December 2003. This Petition was filed on 19 February 2004.

DISCUSSION

The application, file history and petition have been considered carefully.

Applicants' amendment filed 25 September 2003 stated that:

> Claims 49-60, 62-80, and 93-104 are pending.
> Claims 49, 50, 62, 63, 64, 93, 94, and 101 are amended.
> Claim 105 is new.

A review of the file and amendment filed 25 September 2003 confirms that Claims 1-48 and 61 had been canceled, Claims 49-60, 62-80, 93-105 were pending and Claims 49, 50, 62, 63, 64, 93, 94, and 101 were amended.

In contrast, the PTOL-326 form which accompanied the Final Office action stated that

> Claims 60, 62-80 and 93-105 is/are pending in the application.
> Of the above claims_____ is/are withdrawn from consideration.
> Claims_____ is/are allowed.
> Claims 60, 62-80 and 93-105 is/are rejected.
> Claims _____ is/are objected to.
> Claims _____ are subject to restriction and/or election requirement.

Moreover, in contradiction to both the Office action summary sheet and Applicants amendment, the first page of the Office action stated that

1. Claims 1-48, 61, 81-92 are cancelled.
2. Claim 105 is added to the instant application.
3. Exhibits 1, 2 and 3.
4. Currently, claims 49-60, 62-80, 93-105 are under examination.

Furthermore, a review of the Office action shows that claims 49-80 and 93-96 were rejected. The Examiner indicated that Claims 93-105 were allowable if applicants resolved the rejection under 35 USC 112, second paragraph. It is noted that Claims 93-96 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mapes in view of Manita et al. There is no outstanding rejection under 35 USC 112, second paragraph in the Final Office action. The only rejection under 35 USC 112, is under the first paragraph, for new matter, and is applied only to independent claim 49, not to any dependent claims which necessarily contain the limitation objected to under new matter rejection.

Thus, the Office action was not clear, correct or complete concerning the status of the claims. For this reason alone, the Office action was not in condition to be made final.

Turning now to the amendment of claims 62-65, Claims 62-64 were amended to depend upon claim 49 instead of claim 61.

As correctly stated by Applicants

> 6) Prior to applicant's amendment filed September 25, 2003, claim 61 depended from claim 49, and claims 62-64 depended from claim 61. In that amendment, claim 49 was amended to include the subject matter of claim 61. Claim 61 was cancelled, and claims 62-64 were amended to depend from claim 49.

Amended claims 62-64 are reproduced below:

> 62. The method of claim 49, wherein said adjustment binder is selected from the group consisting of an enzyme, a receptor, and an antibody.

63. The method of claim 49, wherein the adjustment binder is specific for an analyte selected from the group consisting of ceftiofur, cephapirin, amoxicillin, ampicillin and penicillin.
64. The method of claim 49, wherein the adjustment binder is specific for cloxacillin.

The following rejection is newly made in the Final Office action:

8. Claims 61-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mapes in view of LaMotte et al., as applied to claim 49, further in view of Boehringer et al. (US 5521 102) and Charm et al. (J. of Association of Food and Drug Officials (1994): 17-29)

There are several problems with the rejection of claims 61-64 under 35 USC 103(a).

First, the rejection includes canceled claim 61. Second, the rejection uses Boehringer et al. (US 5521 102), which had not been applied in any previous rejection of any claims in the non-final Office actions mailed 12 February 2003 or 25 March 2003. Third, the Examiner admits that Claims 62-64 were rejected under a new ground, see section C) under response to arguments, reproduced below:

> (C) Claims 61-64 under 35 U.S.C. 103(a) rejections. Applicant's arguments with respect to claims 61-64 have been considered but are moot in view of the new grounds of rejection. (See Boehringer et al. reference).

Because canceled claim 61 ultimately depended upon claim 49 and because the amendment of 25 September 2003 amended claim 49 to include the subject matter of claim 61 and to change dependency of claims 62-64 to claim 49, the amendment did not necessitate the new grounds of rejection.

Other deficiencies in the Office action are noted as follows:

In the amendment filed September 25, 2003, applicant made arguments to address the examiner's rejection of claims 61-64 as being unpatentable over Mapes in view of LaMotte as applied to claim 49, and further in view of Manita et al. and Charm et al. Although this rejection was not repeated in the present office action, the Office action was incomplete as the examiner offered no comments on the merits of applicant's arguments.

A Terminal Disclaimer filed 25 September 2003 has yet to be considered by the Office. The Terminal Disclaimer would have been necessary to overcome the rejection of Claims 93-104 under the judicially created doctrine of double patenting over claims 19-33 of U. S. Patent No. 6,319,466. The Office action mailed 16 December 2003 is silent concerning the obvious-type double patenting rejection. The Office action fails to adequately consider to applicants response.

Finally, it is noted that Applicants argue

4) No Notice of References Cited (1310-892) accompanied the present office action. As the Boehringer reference has not been cited previously, a P10-892 form should have been provided to make the reference of record and to reflect the new ground of rejection.
5) No copy of the Boehringer reference was enclosed with the Office action.

In this, applicants err. It is noted that the Boehringer reference (US Patent No. 5,521,102) was cited on the Information Disclosure Statement filed 15 November 2001. A copy of the examiner-initialed PTO 1440 form citing Boehringer was mailed to Applicants on 12 February 2003. The Office does not send copies of references that have been submitted with an Information Disclosure Statement.

DECISION

The petition is **GRANTED** for the reasons set forth above.

In view of the confusing and incomplete Office action, the new grounds of rejection and the improper Finality, the Office action mailed 16 December 2004 has been vacated.

The application is being forwarded to the examiner for action consistent with this decision, i.e., preparation of an Office action clearly and fully responsive to the amendment filed 5 September 2003. The fee for the Terminal Disclaimer has been charged and the Terminal Disclaimer will be reviewed.

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) 272-1600.

Jasemine C. Chambers

Jasemine Chambers
TC1600 Group Director

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OCT 25 2005

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In re Application of	:
Robert J. Markovsky et al	:
Serial No.: 09/961,998	: PETITION DECISION
Filed: September 24, 2001	:
Attorney Docket No.: 0656-013US8	:

This is in response to the petition under 37 CFR 1.181, filed July 26, 2005, requesting withdrawal of the Finality of the Office action mailed June 30, 2005. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that this is a second petition to withdraw Finality of an Office action filed in this application. A first petition was filed on February 19, 2004, with respect to the Finality of the Office action mailed December 16, 2003, and was decided on March 23, 2004, with Finality being withdrawn. Subsequently a non-Final Office action was mailed to applicants on December 15, 2004, setting a three month shortened statutory period for reply. The Office action set forth the following rejections: (A) Claims 49-60, 62-80 and 93-105 (all of the pending claims) were rejected under 35 U.S.C. 112, second paragraph, for indefiniteness; (B) Claims 49, 51-52, 54-55, 57, 60, 62, 65-69 and 80 as unpatentable under 35 U.S.C. 103(a) over Pouletty et al in view of Midgely et al; (C) Claim 58 as unpatentable under 35 U.S.C. 103(a) over Pouletty et al in view of Midgely and further in view of Carroll et al; (D) Claims 56, 63-64 and 70-79 as unpatentable under 35 U.S.C. 103(a) over Pouletty et al in view of Midgely et al and further in view of Charm et al; (E) Claims 93, 95-100 and 102-104 as unpatentable under 35 U.S.C. 103(a) over Pouletty et al in view of Midgely et al; (F) and claim 101 as unpatentable under 35 U.S.C. 10(a) over Pouletty in view of Midgely et al and further in view of Childs et al. Claims 50 and 59 were indicated as containing allowable subject matter.

Applicants replied on May 12, 2005, by amending claims 49-50, 57-58, 93-94 and 105, adding new claims 106-109 and canceling claim 68. Clarification of a number of amendments to the specification and abstract were requested as well as disposition of the terminal disclaimer previously filed. Each of the rejections was addressed thoroughly.

The examiner mailed a new Final Office action to applicants on June 30, 2005, providing the requested clarifications regarding the amendments and terminal disclaimer. The examiner then rejected claims 49-60, 62-67, 69-80 and 93-109 under 35 U.S.C. 112, first paragraph, for lack of written description and for lack of enablement; claims 49-60, 62-67, 69-80 and 93-109 were further rejected under 35 U.S.C. 112, second paragraph, for indefinitness; claims 49, 51-55, 57, 60, 62-63, 65-67, 69-70, 72-73, 80, 93, 95-100, 102-104 and 107-109 were rejected under 35 U.S.C. 103(a) as unpatentable over Pouletty et al in view of Manita et al and Van Der Laken et al; claims 56, 64, 71 and 74-79 were rejected under 35 U.S.C. 103(a) as unpatentable over Pouletty et al in view of Manita et al and Van Der Laken et al and further in view of Charm et al; and claim 101 was rejected under 35 U.S.C. 103(a) as unpatentable over Pouletty et al in view of Manita et al and Van Der Laken et al and further in view of Childs et al. The examiner made the action Final on the basis that the new grounds of rejection were necessitated by applicants' amendments.

Applicants filed this petition on July 26, 2005.

DISCUSSION

Applicants' petition requests withdrawal of the Finality of the last Office action as improper in view of the new art rejections made. It is noted that applicants do not base their petition argument on the newly added rejection under 35 U.S.C. 112, first paragraph, apparently accepting that this rejection was necessitated by applicants' amendments.

Rather applicants argue that the examiner's withdrawal of the Midgely et al reference and subsequent use of Manita et al and Van Der Laken et al references as secondary references (essentially replacing the Midgely et al reference) prohibits the examiner from making the action a Final Office action. Applicants state that both the Manita et al and Van Der Laken references were of record from early on in the prosecution of this application. It is also argued that Manita et al was applied in previous Office actions and then withdrawn and that to now rely on it constitutes a new ground of rejection not necessitated by the amendments.

A review of applicants' amendments to the claims shows that claim 49, the main independent claim, has been extensively amended. Some of the amendments were in response to the rejection of claims under 35 U.S.C. 112, second paragraph, from the previous Office action. The preamble of the claim, however, remains unamended and the steps, except for added step (d), are essentially the same. Applicants have, however, added significant detail and clarity to the steps and added (step (d)) a requirement for a tagged or labeled receptor, however this limitation is not addressed in the rejections.

It is noted that this application has an extensive prosecution history. While an examiner is charged with examining the whole of applicants' claimed invention, including a consideration of possible amendments to be filed subsequently it is not always possible to foresee applicants' amendment direction. However such does not arbitrarily permit an examiner to at one time withdraw a reference and then later reapply it and make an Office action Final. Upon weighing all of the factors, the Finality of the last Office action was not proper and is therefor withdrawn.

The petition is **GRANTED.**

The Office action mailed June 30, 2005, is redesignated a non-Final Office action. Applicants remain under obligation to respond to the Office action within the time period set, 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.

George C. Elliott
Director, Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
James L. Sorenson, et al. :
Application No. 09/962,027 : NOTICE
Filed: September 24, 2001 :
Attorney Docket No. 4293.1US

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**.

Applicant is reminded that, in view of applicant's loss of entitlement to small entity status, the issue fee payment filed in response to the Notice of Allowance and Issue Fee Due mailed October 4, 2004 must be paid as a large entity.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

This file is being referred to Publishing Division to await a response to the Notice of Allowance mailed October 4, 2004.

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

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MAY 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Sorenson, et al.	:	DECISION ACCORDING STATUS
Application No. 09/962,027	:	UNDER 37 CFR 1.47(a)
Filed: September 24, 2001	:	
Attorney Docket No. 1950-4293.1US	:	

This is in response to the petition under 37 CFR 1.47(a), filed January 22, 2002.

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

The above-identified application was filed on September 24, 2001, without a fully executed oath or declaration. Accordingly, on October 22, 2001, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring a oath or declaration executed by joint inventor Frank McNeil, together with a surcharge for its late filing.

In reply, applicant filed the instant petition on January 22, 2002, made timely with a one month extension of time. Accompanying the petition was a declaration executed by inventors James LeVoy Sorenson, Levoy G. Haight, Gloria Smit, and Reed F. Winterton, with the signature block for Frank McNeil left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has included a statement from a person having firsthand knowledge, attesting that McNeil made an oral refusal to sign the declaration. While the record does not make it clear that McNeil was ever presented with the application papers, it is concluded based upon the facts presented on petition that McNeil knew what he was being asked to sign.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Receipt of the $130 petition fee is acknowledged.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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FRANK MCNEIL
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MAY 20 2005

OFFICE OF PETITIONS

In re Application of :
James Levoy Sorenson, Levoy G. Haight, :
Frank McNeil, Gloria Smith, Reed F. :
Winterton :
Application No. 09/962,027 : LETTER
Filed: September 24, 2001
Title: Apparatus and Method for
Peritoneal Dialysis

Dear Mr. McNeil:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
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Andre L. Marais
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In re application of : **DECISION ON PETITION**
Jennifer R. Truitt et al. : **TO MAKE SPECIAL**
Application No. 09/962,043 : **(ACCELERATED**
Filed: September 21, 2001 : **EXAMINATION)**
For: METHOD AND SYSTEM FOR PROCESSING A TRANSACTION

This is in response to the petition filed on February 23, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

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

RAR/mjz: 3/30/04

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 31 2005

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

Andre L. Marais
Blakely, Sokoloff, Taylor & Zafman, LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

MAILED

MAR 31 2005

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Jennifer R. Truitt, et al
Application No. 09/962,043 :
Filed: September 21, 2001 :
For: METHOD AND SYSTEM FOR :
PROCESSING A TRANSACTION

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on October 6, 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 Items A) and B) above.

As to Item A), there are currently 73 attorneys associated with Customer Number 08791, however, according to the original declaration power of attorney, 101 attorneys are of record in this application. If only the attorneys of record are to be withdrawn, any renewed request must so state.

As to Item B), the reason " discontinuation of attorney-client relationship" is not a valid reason for withdrawal.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
Facsimile No.: (703) 605-0586

RAR/dcg: 12/16/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AKA CHAN LLP/CISCO
900 LAFAYETTE STREET, SUITE 710
SANTA CLARA, CA 95050

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Harris **WONGSONEGORO**, et al :
Application No. 09/962,047 : ON PETITION
Filed: September 21, 2001 :
Attorney Docket No. CISCP706 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 11, 2006 . The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 12, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been 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 2616 for processing of the RCE and for appropriate action by the Examiner in the normal course of business.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

Walker Digital Corporation
Five High Ridge Park
Stamford CT 06905

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AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Walker, et al. :
Application No. 09/962,065 : DECISION ON PETITION
Filed: September 25, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 01-039 :
For: METHOD AND SYSTEM FOR ADAPTING
CASINO GAMES TO PLAYING PREFERENCES

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 5, 2004 (certificate of mailing date January 2, 2004), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on September 25, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been

included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

This application is being forwarded to Technology Center Art Unit 3713 for appropriate action on the amendment filed December 29, 2003 (certificate of mailing date December 24, 2003), including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Brian Hearn

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Walker Digital Corporation
Five High Ridge Park
Stamford CT 06905

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of
Jay S. Walker, James A. Jorasch, and Thomas M. Sparico
Application No. 09/962,065
Filed: September 25, 2001
Attorney Docket Number: 01-039
Title: METHOD AND SYSTEM FOR ADAPTING CASINO GAMES TO PLAYING PREFERENCES

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 July 18, 2005.

On September 25, 2001, the application was deposited, identifying Jay S. Walker, James A. Jorasch, and Thomas M. Sparico as joint inventors, along with a fully executed copy of the declaration from the parent application.

With this petition, Petitioner has included the petition fee, a declaration which has been executed by the first two named joint inventors, and several statements of fact.

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[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

Petitioner has met requirements (1) – (5) above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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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MAY 2 2005

OFFICE OF PETITIONS

In re Application of :
Hanne Anna Katherina Blau et al :
Application No. 09/962,173 : DECISION GRANTING PETITION
Filed: September 25, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CL 1871 US NA :

This is a decision on the petition, filed May 2, 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 August 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 (571) 272-3218.

This matter is being referred to Technology Center AU 1746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement filed of even date.

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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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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MAY 2 2005

OFFICE OF PETITIONS

In re Application of :
Hanne Anna Katherina Blau et al :
Application No. 09/962,173 : DECISION GRANTING PETITION
Filed: September 25, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CL 1871 US NA :

This is a decision on the petition, filed May 2, 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 August 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 (571) 272-3218.

This matter is being referred to Technology Center AU 1746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement filed of even date.

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

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

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

Date : May 2, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/962,173**

Applicant(s) : Hanne Anna Katherina Blau et al
Application No. : 09/962,173
Filed : September 25, 2001

The above-identified application has been assigned Patent No. 6,887,624 and an issue date of May 3, 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 May 3, 2005:

"All reference to Patent No. 6,887,624 to Hanne Anna Katherina Blau et al of Germany for GRAFT OLIGOMERIC ELECTROLYTES appearing in the Official Gazette of May 3, 2005 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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAY - 6 2003

UR
PAPER NO. 5

In re Application of :
John A. Cooper et al. :
Serial Number: 09/962,177 :
: PETITION UNDER
Filed: September 24, 2001 : M.P.E.P. 708.02,V
For: APPARATUS AND METHODS FOR REMOVING :
MERCURY FROM FLUID STREAMS :

This is in response to the petition filed, February 20, 2003 requesting that the above-identified application be granted Special Status under section 708.02 (V) of the MPEP and 37 CFR 1.102(c) (no fee required).

The request for Special Status considered under Section 708.02 (V) is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is GRANTED.

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

Glenn C. Brown, PC
777 NW Wall Street, Suite 308
Bend, OR 97701

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 09/962180
DATED: June 22, 2007
INVENTOR(S): Kawano et al.

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

FOREIGN PATENT DOCUMENTS

JP	02196539	8/1990
JP	02202740	8/1990
JP	05244154	9/1993
JP	09135243	5/1997
JP	2000502228	6/1997
JP	2000232472	8/2000
WO	WO 97/23101	6/1997

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Paper No. 11

ARMSTRONG, KRATZ, QUINTOS, HANSON
& BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of
Hiroshi Ishikawa et al
Application No. 09/962,194
Filed: September 26, 2001
Attorney Docket No. 011237

ON PETITION

This is a decision on the petition, filed October 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 July 31, 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 2856 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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TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATENT
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WASHINGTON, D.C. 20231
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Paper No. 3

Thomas J. Scott, Jr. Esq.
Hunton & Williams
Suite 1200
1900 K Street, NW
Washington, DC 20006

In re Application of: Bernard Del Rey et al.)
Application No. 09/962,217)
Filed: September 26, 2001)
For: SYSTEM AND METHOD FOR AGGREGATE PORTFOLIO CLIENT SUPPORT)

DECISION ON PETITION UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed March 21, 2002, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. A fee under 37 C.F.R. for such a petition is required.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 27

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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MAY 1 1 2004
OFFICE OF PETITIONS

In re Application of :
Del Rey et al. :
Application No. 09/962,217 : DECISION GRANTING PETITION
Filed: September 26, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 47004.000108 :

This is a decision on the petition, filed April 14, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 21, 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 August 19, 2004 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3621 for examination in due course.

Telephone inquiries concerning this decision 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON DC 20006

MAILED

FEB 2 8 2003

Technology Center 2600

In re Application of :
Isaac Shpantzer et al :
Application No. 10/962,243 :
Filed: September 26, 2001 :
For: **SYSTEM AND METHOD FOR CODE DIVILSION MULTIPLEXED OPTICAL COMMUNICATION** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on January 14, 2003.

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

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

All attorneys and agents 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: Isaac Shpantzer, Ph. D.
Chief Technical Officer
CeLight, Inc.
12200 Tech Road, Suite 300
Silver Spring, MD 20904

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of :
Rei Koike et al :
Application No. 09/962,246 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. 50212-301 :

This is a decision on the petition, filed June 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 September 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

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

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

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Paper No. 9

MAIL

JUL 29 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON SPIVAK MCCLELLAND MAIER &
NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

In re Application of :
Marian Rudolf et al :
Application No.: 09/962,271 :
Filed: September 26, 2001 :
For: METHOD OF SYNCHRONIZING
BASE STATIONS

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed January 04, 2002 and supplemental information received by facsimile on July 23, 2002, to make the above-identified application special pursuant to M.P.E.P. § 708.02(VIII).

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(h) (note the correction from CFR 1.17 (I) to CFR 1.17 (h)), (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition meets the above stated requirements and is **GRANTED**.

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

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
communications
(703) 305-4710

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APR 29 2004

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APR 29 2004

OFFICE OF THE DIRECTOR
TC 3600

McAndrews, Held & Malloy, Ltd.
Citicorp Center
500 West Madison Street, 34th Floor
Chicago, Illinois 60661

In re application of
Charles M. Smith et al.
Application No. 09/962,296
Filed: September 26, 2001
For: DUDE TANDEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on March 19, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Charles M. Smith indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

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

SNM/vdb: 4/26/04

09962311

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Jan. 06, 2004

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction on Patent No.: 6,781,731

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, ***should the patent read as shown in the certificate of correction***? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see the COCIN, the letter to the examiner requesting insertion of the References Cited, and the un-signed 1449 date-stamped by OIPE, March 19, 2004!

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:

_____

_____

_____

_____

_____

Richard Mack
SPE

2873
Art Unit

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FEB 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of:
Byoung-Young Bae, et al.
Application Serial No.: 09/962,313
Filed: September 26, 2001
For: **RECORDING APPARATUS ENABLING REPLACEMENT OF DISK CARTRIDGE**

DECISION
ON PETITION

This is a decision on the petition filed March 26, 2004 and re-filed on April 13, 2004 under 37 CFR § 1.181 in regard to the Examiner's Refusal to enter an amendment after final Office action.

Petitioner states that the "..amendment does not raise a new issue or require additional consideration..." and "..applicant provides a clarifying amendment which does not raise new issues and instead clarifies a claim within the scope of considered issues already considered by the Examiner...".

A review of the file records reveal that a non-final Office action was mailed on August 13, 2003 wherein claims 4, 7 and 11 were rejected under 37 U.S.C. §112 second paragraph. Claims 1-4, 7, 11-15 and 18 were rejected as being clearly anticipated by Kume et al. Claims 1-4, 7, 11, 18-25, 30 and 31 were rejected as being clearly anticipated by Mukaijima et al. Claims 19-28, 30 and 31 were found unpatentable over the combination of Kume et al. in view of Mukaijima et al. Finally, claims 5, 6, 8-10, 16, 17 and 32-38 were objected to as being dependent upon a rejected base claim.

On November 5, 2003, Applicants responded to the outstanding non-final Office action by canceling claim 20 and non-elected claim 29, amending claims 21 and 30-33, adding claims 39-43 and presenting arguments against the applied rejections.

On December 5, 2003 the Office mailed a final Office action wherein the examiner maintained their position with respect to claims 4, 7 and 11, rejected under 37 U.S.C. §112 second paragraph; claims 1-4, 7, 11-15 and 18 rejected as being clearly anticipated by Kume et al., and claims 1-4, 7, 11, 18, 19, 21-25, 30 and 31 were rejected as being clearly anticipated by Mukaijima et al. (claim 20 was cancelled); and the examiner also maintained that claims 19, 30 and 31 were unpatentable under 35 U.S.C. § 103 over the combination of Kume et al. in view of Mukaijima et al. (i.e., the examiner did not maintain the obviousness rejection with respect to claims 21 through 28). In addition, the examiner held that new claims 39 and 43 were clearly anticipated by Kume et al. and that new claims 40 and 43 were clearly anticipated by Mukaijima et al.

On March 10, 2004, Applicant's filed an amendment after final Office action, requesting amendment to claim 43 to include descriptive language. Specifically, the limitation of claim 43 prior to the proposed amendment reads:

> "a removable cover that fastens to the cartridge and positions the cartridge such that the recording medium is rotatably driven by said disk driving section".

Applicant proposed amending the same limitation to read:

> "a removable cover that is detachable from the housing and fastens to the cartridge and positions the cartridge such that the recording medium is rotatably driven by said disk driving section".

On March 10, 2004 the Office mailed an advisory action which indicated that the proposed amendment would not be entered because the added limitation raised a new issue that would require further consideration or search.

Petitioner does not argue the finality of the Office action mailed December 5, 2003 within the instant petition. Therefore, the final rejection was not premature.

MPEP §714.12 Amendments After Final Rejection or Action, states in part:

> Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP § 706.07(f), § 714.13 and § 1207. [emphasis added]

37 CFR §1.116. Amendments after final action or appeal, states in part:

> (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. No amendment can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided for in paragraph (d) of this section. [emphasis added]

The amendment filed March 10, 2004 does not cancel claims or amend claims as a result of examiner requirement. The proposed amendment solely to claim 43, did not place the application in condition for allowance. Thus the only question is whether or not the amendment places the application in better form for appeal.

Petitioner argues that the proposed amendment to claim 43 used language consistent with that existing in claims 2, 4 and 21. Upon review, claim 2 depends from independent claim 1. Claim 4 depends from claim 2 which depends from claim 1. Furthermore, claim 21 begins a new claim tree as an independent claim. Therefore, Petitioner's argument that the language for the proposed amendment to claim 43 was gathered from language used in claims 2, 4 and 21 is irrelevant. Neither claim 2, 4 or 21 depends directly or indirectly from independent claim 43 and therefore the proposed limitation is one which was newly presented to independent claim 43, after the close of prosecution. Therefore, the proposed amendment is a new issue which has not

been addressed with respect independent claim 43 and thus does not place the application in better form for appeal.

Accordingly, Applicant's petition to have the amendment after final entered is **DENIED**.

The file is being forwarded to the examiner for action on Appellant's Brief in due course.

Mark Powell, Director
Technology Center 2600
Communications

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Paper No. 6

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MAR 1 3 2003

Technology Center 2600

PENNIE & EDMONDS LLP
1667 K STREET NW
SUITE 1000
WASHINGTON DC 20006

In re Application of :
Nadejda Reingand et al :
Application No. 09/962,339 :
Filed: September 26, 2001 :
For: **METHOD AND SYSTEM FOR OPTICAL TIME DIVISION MULTIPLEXED FIBER COMMUNICATIONS WITH COHERENT DETECTION** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

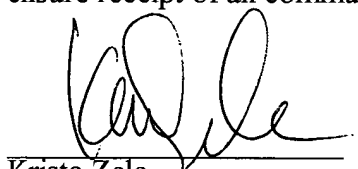
This is a decision on the request to withdraw as attorney/agent of record filed on January 14, 2003.

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

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

All attorneys and agents 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: Isaac Shpantzer, Ph. D.
Chief Technical Officer
CeLight, Inc.
12200 Tech Road, Suite 300
Silver Spring, MD 20904

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of :
Dey et al. : DECISION ON APPLICATION
Application No. 09/962,352 : FOR
Filed: September 26, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. 01142.0109-01 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT," filed August 3, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred fifty-five (655) days to six hundred fifty-seven (657) 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 fifty-seven (657)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 5, 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 655 days. On August 3, 2005, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 91 days associated with the

[1] PALM records indicate that the Issue Payment was also filed on August 3, 2005.

filing of a response after non-final on September 19, 2002. Applicants state the response was filed on September 17, 2002, and thus, the reduction should be 89 days. In support thereof, applicants submit a copy of their itemized and date-stamped return postcard, acknowledging receipt of the response in the Technology Center on September 17, 2002.

Applicants state that the application is subject to a terminal disclaimer.

Applicants are correct. A review of the record confirms that the entire response to the Office action mailed March 20, 2002, was received in the Office on September 17, 2002. Thus, the reduction pursuant to § 1.704(b) is 89 days, not 91 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 657 days (746 - 89).

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

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/15/06

TO SPE OF : ART UNIT 3737

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/962402 Patent No.: 6926732

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

ANHTUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
SPE

8/27/07
Art Unit

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

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APR 2 4 2008

OFFICE OF PETITIONS

In re Application of :
AUDINOT, Pascal :
Application No. 09/962,417 : DECISION ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. **TI-31217** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 4, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 5, 2005.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center Art Unit 2614 for consideration of the amendment filed April 18, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAR 19 2007

OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of :
Spencer, et al. : DECISION ON PETITION
Application No. 09/962,424 :
Filed: September 25, 2001 :
Docket No.: MP1432 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 22, 2004.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed September July 15, 2003. Notice of Abandonment was mailed November 15, 2004.

Petitioners assert that a response to the non-final Office action was timely submitted on September 15, 2003 and have provided as proof of mailing and proof of USPTO receipt a return postcard dated September 15, 2003 acknowledging receipt of the reply.

The original response was received September 15, 2003 has been located in the application file.

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**.

The application file is being forwarded to the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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MAY 23 2003

OFFICE OF PETITIONS

In re Application of
Bogan et al
Application No. 09/962,487
Filed: September 25, 2001
For : METHODS FOR PRODUCING UNSATURATED CARBOXYLIC ACIDS AND UNSATURATED NITRILES

: ON PETITION

This is a decision on the petitions filed April 8, 2003, which are being treated as (1) a petition under 37 CFR 1.181 requesting withdrawal of any holding of abandonment, (2) a petition under 37 CFR 1.47(a) to accord this application status in the absence of the signature of joint inventor Lin, (3) a petition under 37 CFR 3.71 by the alleged assignee of the entire interest to intervene in the prosecution, which is being treated as a petition under 37 CFR 1.181 seeking acknowledgment on the record that there is an assignee of the entire interest and that assignee has in fact intervened, (4) a petition on behalf of the alleged assignee of the entire interest under 37 CFR 1.182 to expunge any papers filed by non-signing joint inventor Lin, and (5) a petition on behalf of the alleged assignee of the entire interest under 37 CFR 1.181 and MPEP 106 to control inspection of the file by non-signing joint inventor Lin.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **granted.**

The petition under 37 CFR 1.47(a) to accord this application status is **granted.**

The petition under 37 CFR 1.181 to acknowledge intervention by the alleged assignee of the entire interest is **dismissed.**

The petition under 37 CFR 1.182 to expunge any papers filed by Lin is presently **dismissed**, subject to reinstatement under 37 CFR 1.59 as necessary.

The petition under 37 CFR 1.181 and MPEP 106 by the alleged assignee of the entire interest to control inspection of the file by Lin is **dismissed**.

The above-identified application papers were deposited on September 25, 2001. However, on October 30, 2001, the Office of Initial Patent Examination mailed a Notice stating that while a filing date had been granted to these papers, applicant had two months to supply the missing signature of joint inventor Ms. Manhua Lin (Lin), and pay the late completion surcharge. In the absence of any reply to the Notice, this application apparently became abandoned by operation of 35 USC 111(a)(4) at midnight on November 30, 2001. A Notice of Abandonment has not been mailed.

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Paper No. 10

MANHUA MANDY LIN
1616 HOLLY HILL LANE
MAPLE GLEN PA 19002

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MAY 23 2003

OFFICE OF PETITIONS

LETTER

In re Application of
Bogan et al
Application No. 09/962,487
Filed: September 25, 2001
For : METHODS FOR PRODUCING UNSATURATED CARBOXYLIC ACIDS AND UNSATURATED NITRILES

Dear Ms. LIn

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 in joining in the application and such would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Inquiries related to this communication may be addressed to the undersigned at (703) 305-1820. 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 related to this communication only should be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

cc:

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

With respect to petition under 37 CFR 1.181 to withdraw the holding of abandonment

On April 8, 2003, applicant filed the present petition which asserts, and supplies documentary evidence in support of the assertion, that the Notice was not received by applicant. Moreover, as inspection of the file itself reveals that the original copy of the Notice that was allegedly mailed to applicant still resides in the file and was never mailed, it is appropriate to withdraw the holding of abandonment. Due to applicants' intervening inspection of the file the necessary reply has been filed and as such is no longer necessary to remail the Notice. The holding of abandonment is withdrawn.

With respect to the petition under 37 CFR 1.47(a) to accord this application status:

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 and OIPE is authorized to

(1) accept this application under 37 CFR 1.47(a);

(2) process this application with the inventors being Bogan, Han, Jacobs, Kaiser, Klugherz, Lin, Link, and Linsen using the declaration present on filing; and

(3) mail a filing receipt with a filing date of September 25, 2001.

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

With respect to the petition under 37 CFR 1.181 to acknowledge intervention by the assignee of the entire interest:

A review of USPTO assignment records fails to reveal that any assignment of Lin's interest in either the above-identified non provisional application, or of prior provisional application No. 60/263,031 (which would carry to the instant application, per MPEP 306.01) has been recorded at the USPTO. Furthermore inspection of the assignment proffered with the instant petition (second Exhibit 1) reveals that while Bogan, Han, Jacobs, Kaiser, Klugherz, Link, and Linsen have conveyed their rights in this application to Rohm & Haas, Lin has not executed that document. Accordingly in the absence of any assignment of Lin's rights in either the provisional or instant non provisional application, Lin will be presumed to have retained her rights in these applications. See 37 CFR 3.73(a). It follows that Rohm & Haas is not the assignee of the entire interest in the above-identified application within the meaning of 37 CFR 3.71(a)(1). Rather, Rohm & Haas plus Lin jointly in combination own the entire interest in this application, and as such Rohm & Haas is a partial assignee by virtue of its ownership of less than the entire interest in this application. See 37 CFR 3.71(b)(2). As such, Rohm & Haas has not shown to the satisfaction of the USPTO that it may intervene to the exclusion of Lin within the meaning of 37 CFR 3.73(b) and MPEP 324, since only the owner of the *entire* interest in an application has the sole right to control prosecution of that application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also

In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924).

The employment and confidentiality agreement proffered with the petition (first Exhibit 1) merely sets forth Lin's obligation to assign inventions made in the future and is not an assignment of this application. Inspection of the aforementioned agreement, as it is dated (1989) before the filing of the above-identified application (in 2001), such agreement clearly does not reference this *application* with any specificity, and furthermore, is a contract related to Lin's employment.[1]

An agreement to assign in the future inventions not yet developed may vest the promisee with equitable rights in those inventions once made; however, such an agreement does not by itself vest legal title to patents on the inventions in the promisee. See, Arachnid, Inc. v. Merit Industries, Inc. 939 F.2d 1574, 1580 19 USPQ2d 1513, 1518 (Fed. Cir. 1991). Further in this regard, the PTO has consistently interpreted the applicable statutes and regulations relating to the recording and effect of assignment documents in the USPTO as applying only to instruments which on their face affect title to a patent or *application*. See In re Farrand, 1912 C.D. 227 (Comm'r Pat. 1912); In re Charlton, 1903 C.D. 159 (Comm'r Pat. 1903). It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892). Rather, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), cert. denied, 114 S. Ct. (1994). Accordingly, the USPTO will not determine whether Lin's position at Rohm & Haas operated to convey her rights in the "invention" of this *application* to Rohm & Haas. The petition seeking that the USPTO acknowledge that Rohm & Haas is the assignee of the entire interest, and, as such that Rohm & Haas as the alleged assignee of the entire interest has intervened to the exclusion of Lin, must be dismissed.

With respect to the petition under 37 CFR 1.182 to expunge any papers filed by Lin:

As to the request that any communication(s) (to be) filed by or on behalf of the inventor be automatically expunged, that request is problematic and cannot be granted as a matter of course. Likewise, a named inventor of this or any application may have

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[1] A distinction must be made between a property right to an "invention," and a property right to a patent *application*, as a given patent *application* may or may not embody that "invention." Insofar as this case is concerned, the relevant statutes and regulations only speak to the recordation of the assignment of "applications for patent", not inventions. See, e.g., 35 USC § 261 and 37 CFR 3.11 *et seq.* Likewise, while 35 USC § 100 defines invention, § 100 does not define invention as being synonymous with, or meaning, "application for patent." This distinction is further evident from inspection of other sections of Title 35: e.g., 35 §§ 111, 119, 120, 121, 131.

information to disclose under 37 CFR 1.56. Nevertheless, petitioner is advised that should any of petitioner's trade secret or proprietary information be submitted herein, petitioner may specifically identify such material and seek removal pursuant to 37 CFR 1.59.

With respect to the petition under 37 CFR 1.181 and MPEP 106 to control inspection of the file by Lin:

As noted above, since Rohm & Haas has not shown on the record that it is the assignee of the entire interest, then Rohm & Haas cannot control prosecution of this application to the exclusion of Lin. Lin retains her ownership interest. As such, Rohm & Haas is not qualified to, and may not, control inspection of this application within the meaning of MPEP 106. Lin will not be excluded from inspection of this application.

This application, having been accorded Rule 47 status, is being forwarded to OIPE for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

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Paper No. 9

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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MAY 23 2003

OFFICE OF PETITIONS

In re Application of
Bogan et al
Application No. 09/962,487
Filed: September 25, 2001
For : METHODS FOR PRODUCING UNSATURATED CARBOXYLIC ACIDS AND UNSATURATED NITRILES

: ON PETITION

This is a decision on the petitions filed April 8, 2003, which are being treated as (1) a petition under 37 CFR 1.181 requesting withdrawal of any holding of abandonment, (2) a petition under 37 CFR 1.47(a) to accord this application status in the absence of the signature of joint inventor Lin, (3) a petition under 37 CFR 3.71 by the alleged assignee of the entire interest to intervene in the prosecution, which is being treated as a petition under 37 CFR 1.181 seeking acknowledgment on the record that there is an assignee of the entire interest and that assignee has in fact intervened, (4) a petition on behalf of the alleged assignee of the entire interest under 37 CFR 1.182 to expunge any papers filed by non-signing joint inventor Lin, and (5) a petition on behalf of the alleged assignee of the entire interest under 37 CFR 1.181 and MPEP 106 to control inspection of the file by non-signing joint inventor Lin.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **granted.**

The petition under 37 CFR 1.47(a) to accord this application status is **granted.**

The petition under 37 CFR 1.181 to acknowledge intervention by the alleged assignee of the entire interest is **dismissed.**

The petition under 37 CFR 1.182 to expunge any papers filed by Lin is presently **dismissed**, subject to reinstatement under 37 CFR 1.59 as necessary.

The petition under 37 CFR 1.181 and MPEP 106 by the alleged assignee of the entire interest to control inspection of the file by Lin is **dismissed**.

The above-identified application papers were deposited on September 25, 2001. However, on October 30, 2001, the Office of Initial Patent Examination mailed a Notice stating that while a filing date had been granted to these papers, applicant had two months to supply the missing signature of joint inventor Ms. Manhua Lin (Lin), and pay the late completion surcharge. In the absence of any reply to the Notice, this application apparently became abandoned by operation of 35 USC 111(a)(4) at midnight on November 30, 2001. A Notice of Abandonment has not been mailed.

With respect to petition under 37 CFR 1.181 to withdraw the holding of abandonment

On April 8, 2003, applicant filed the present petition which asserts, and supplies documentary evidence in support of the assertion, that the Notice was not received by applicant. Moreover, as inspection of the file itself reveals that the original copy of the Notice that was allegedly mailed to applicant still resides in the file and was never mailed, it is appropriate to withdraw the holding of abandonment. Due to applicants' intervening inspection of the file the necessary reply has been filed and as such is no longer necessary to remail the Notice. The holding of abandonment is withdrawn.

With respect to the petition under 37 CFR 1.47(a) to accord this application status:

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 and OIPE is authorized to

(1) accept this application under 37 CFR 1.47(a);

(2) process this application with the inventors being Bogan, Han, Jacobs, Kaiser, Klugherz, Lin, Link, and Linsen using the declaration present on filing; and

(3) mail a filing receipt with a filing date of September 25, 2001.

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

With respect to the petition under 37 CFR 1.181 to acknowledge intervention by the assignee of the entire interest:

A review of USPTO assignment records fails to reveal that any assignment of Lin's interest in either the above-identified non provisional application, or of prior provisional application No. 60/263,031 (which would carry to the instant application, per MPEP 306.01) has been recorded at the USPTO. Furthermore inspection of the assignment proffered with the instant petition (second Exhibit 1) reveals that while Bogan, Han, Jacobs, Kaiser, Klugherz, Link, and Linsen have conveyed their rights in this application to Rohm & Haas, Lin has not executed that document. Accordingly in the absence of any assignment of Lin's rights in either the provisional or instant non provisional application, Lin will be presumed to have retained her rights in these applications. See 37 CFR 3.73(a). It follows that Rohm & Haas is not the assignee of the entire interest in the above-identified application within the meaning of 37 CFR 3.71(a)(1). Rather, Rohm & Haas plus Lin jointly in combination own the entire interest in this application, and as such Rohm & Haas is a partial assignee by virtue of its ownership of less than the entire interest in this application. See 37 CFR 3.71(b)(2). As such, Rohm & Haas has not shown to the satisfaction of the USPTO that it may intervene to the exclusion of Lin within the meaning of 37 CFR 3.73(b) and MPEP 324, since only the owner of the *entire* interest in an application has the sole right to control prosecution of that application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also

In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924).

The employment and confidentiality agreement proffered with the petition (first Exhibit 1) merely sets forth Lin's obligation to assign inventions made in the future and is not an assignment of this application. Inspection of the aforementioned agreement, as it is dated (1989) before the filing of the above-identified application (in 2001), such agreement clearly does not reference this *application* with any specificity, and furthermore, is a contract related to Lin's employment.[1]

An agreement to assign in the future inventions not yet developed may vest the promisee with equitable rights in those inventions once made; however, such an agreement does not by itself vest legal title to patents on the inventions in the promisee. See, Arachnid, Inc. v. Merit Industries, Inc. 939 F.2d 1574, 1580 19 USPQ2d 1513, 1518 (Fed. Cir. 1991). Further in this regard, the PTO has consistently interpreted the applicable statutes and regulations relating to the recording and effect of assignment documents in the USPTO as applying only to instruments which on their face affect title to a patent or *application*. See In re Farrand, 1912 C.D. 227 (Comm'r Pat. 1912); In re Charlton, 1903 C.D. 159 (Comm'r Pat. 1903). It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892). Rather, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), cert. denied, 114 S. Ct. (1994). Accordingly, the USPTO will not determine whether Lin's position at Rohm & Haas operated to convey her rights in the "invention" of this *application* to Rohm & Haas. The petition seeking that the USPTO acknowledge that Rohm & Haas is the assignee of the entire interest, and, as such that Rohm & Haas as the alleged assignee of the entire interest has intervened to the exclusion of Lin, must be dismissed.

With respect to the petition under 37 CFR 1.182 to expunge any papers filed by Lin:

As to the request that any communication(s) (to be) filed by or on behalf of the inventor be automatically expunged, that request is problematic and cannot be granted as a matter of course. Likewise, a named inventor of this or any application may have

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[1] A distinction must be made between a property right to an "invention," and a property right to a patent *application*, as a given patent *application* may or may not embody that "invention." Insofar as this case is concerned, the relevant statutes and regulations only speak to the recordation of the assignment of "applications for patent", not inventions. See, e.g., 35 USC § 261 and 37 CFR 3.11 *et seq.* Likewise, while 35 USC § 100 defines invention, § 100 does not define invention as being synonymous with, or meaning, "application for patent." This distinction is further evident from inspection of other sections of Title 35: e.g., 35 §§ 111, 119, 120, 121, 131.

information to disclose under 37 CFR 1.56. Nevertheless, petitioner is advised that should any of petitioner's trade secret or proprietary information be submitted herein, petitioner may specifically identify such material and seek removal pursuant to 37 CFR 1.59.

With respect to the petition under 37 CFR 1.181 and MPEP 106 to control inspection of the file by Lin:

As noted above, since Rohm & Haas has not shown on the record that it is the assignee of the entire interest, then Rohm & Haas cannot control prosecution of this application to the exclusion of Lin. Lin retains her ownership interest. As such, Rohm & Haas is not qualified to, and may not, control inspection of this application within the meaning of MPEP 106. Lin will not be excluded from inspection of this application.

This application, having been accorded Rule 47 status, is being forwarded to OIPE for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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JUN 16 2005

OFFICE OF PETITIONS

In re Patent No.:6,710,207
issue Date: March 23, 2004
Application No. 09/962,487
Filed: September 25, 2001
Inventor: Bogan et al.

:DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.59 filed May 3, 2005, to expunge and/or make inaccessible papers filed by or on behalf of one of the named inventors.

The petition is **granted.**

Petitioner requests that a communication filed June 25, 2004, which is subsequent to the issuance of the above-captioned patent, by non-signing inventor Manhua Lin ("Lin"), be expunged or made inaccessible in this Image file Wrapper (IFW) case. The reasons set forth in the petition establish to the satisfaction of the Director that expungement of the information is appropriate. The file entry for that document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

As to the request that any communication filed by or on behalf of Lin be automatically expunged, that request is problematic and cannot be granted as a matter of course. An example of an expressly authorized communication in a patented file is set forth in 35 U.S.C. § 301. That is, Lin is "any person" who is statutorily authorized to cite prior art in this patented file. See 35 U.S.C. § 301; 37 CFR 1.501. Accordingly, automatic expungement of every document that possibly could be filed by Lin would be inconsistent with the statute. Nevertheless, petitioner is advised that should any document having improper content come to be filed herein by Lin or any other party, petitioner may specifically identify such material and request removal as was done here.

Any inquiries concerning this communication may be directed to the undersigned at (571) 272-3217.

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

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JUL 2 9 2004

DCM

In re Application of Fernando A. de Torres Serial Number: 09/962,509 Filed: June 25, 2001 For: CONTAMINANT ECO-REMEDY AND USE METHOD	:	PETITION UNDER M.P.E.P.708.02 V

This is in response to the petition filed June 25, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 V is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Edward M. Livingston, Esq.
628 Ellen Dr.
P.O. Box 1599
Winter Park FL 32790

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STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10018

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MAY 19 2004

OFFICE OF PETITIONS

In re Application of :
Joji Sasai et al :
Application No. 09/962,544 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. 524941/0006 :

This is a decision on the petition, filed May 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 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 2854 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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NEW YORK NY 10018

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Yoji Sasai et al :
Application No. 09/962,544 :
Filed: September 24, 2001 :
Attorney Docket No. 524941/0006 :

ON PETITION

This is a decision on the petition, filed August 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2854 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. 7

Sten E. Hakansan
Patent Attorney
IMI Cornelius Inc.
One Cornelius Place
Anoka, MN 55303-6234

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MAY 0 8 2003

OFFICE OF PETITIONS

In re application of
Holland, Joseph E.
Application No. 09/962,563
Filing Date: September 24, 2001
Attorney Docket No. 2A0117.NP

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts (Notice) filed October 19, 2001, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the above-identified application became abandoned on December 20, 2001.

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

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

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

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DAVIS BROWN KOEHN SHORS & ROBERTS
SUITE 2500, 666 WALNUT STREET
DES MOINES, IA 50309

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Robert Stomp et al :
Application No. 09/962,570 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. 4532660/68390 KEM 56 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 2004, to revive the above-identified application, which is being treated as a request for extension of time under 37 CFR 1.136(a).

The petition under 37 CFR 1.137(b) is **DISMISS AS MOOT.**

The request for extension of time is **GRANTED.**

A three(3) month extension of time was charged from petitioner's Deposit Account No. 12-2250 and the petition fee of $1,330.00 is being credited to the same Deposit Account No.

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

This matter is being referred to Technology Center AU 1651.

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

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ALCATEL LUCENT
INTELLECTUAL PROPERTY & STANDARDS
3400 W. PLANO PARKWAY, MS LEGL2
PLANO, TX 75075

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JUN 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Ljubisa Tancevski	:	
Application No. 09/962,685	:	DECISION ON PETITION
Filed: September 25, 2001	:	
Attorney Docket No. 135821	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed May 31, 2006. A Notice of Abandonment was mailed on February 27, 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 with the $500 fee and a Pre-Appeal Brief Request; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, 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.

The Office acknowledges receipt of $1,020 for a three months 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). Accordingly, since the $1,020 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 2616 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

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SEP 0 8 2006

OFFICE OF PETITIONS

Decision on Petition

In re Patent of :
Ezquerra-Moreu et al. :
Patent No. 6,947,496 :
Issue Date: September 20, 2005 :
Application No. 09/962,687 :
Filing Date: September 25, 2001 :
Attorney Docket No. TI-31781 :

This is a decision in response to the paper filed February 27, 2006, which is being treated as a petition under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the above-identified patent.

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

37 CFR 3.81(b) reads:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

The Office notes the Certificates of Correction Branch issued the requested certificate of correction on March 31, 2006.

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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NASA/MARSHALL SPACE FLIGHT CENTER
LS01 OFFICE OF CHIEF COUNSEL
MSFC AL 35812

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Harry F. Schramm :
Application No. 09/962,704 : ON PETITION
Filed: August 23, 2001 :
Attorney Docket No. MFS-31549-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2004, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed July 9, 2003. This Office action set a shortened statutory period for reply of three months. Applicant obtained a three month extension of time and filed an amendment on December 23, 2003. However, the amendment failed to place the application in condition for allowance. Accordingly, the application became abandoned on January 10, 2004. An Advisory Action was mailed on January 14, 2004. A Notice of Abandonment was mailed on April 15, 2004.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of an amendment was previously filed on March 31, 2004.

The petition fee of $1,330 has been charged to Deposit Account No. 14-0116, as authorized.

The application file is being forwarded to Group Art Unit 1745 for consideration of the amendment filed May 12, 2004.

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

Cliff Congo
Petitions Attorney
Office of Petitions

DUE | KAU

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SEP 1.8 2004

TECHNOLOGY CENTER 2100

Paper No. 8

Caterpillar Inc. KCE
100 N.E. Adams Street
Patent Department
Peoria, IL 61629-6490

In re Application of: Ferguson et al.
Application No.: 09/962,706
Filed: September 25, 2001
Attorney Docket No.: 01-406
For: METHOD AND APARATUS FOR INSTALLING DATA IN A MEMORY ON A WORK MACHINE

DECISION ON PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8

This is a decision on the response filed August 20, 2004 to the holding of abandonment. The application was abandoned for failure to receive a response to the Office action mailed October 8, 2003. The communication is being considered as a petition under 37 CFR § 1.8(b) as requesting the acceptance of correspondence as timely filed.

The practitioner has submitted a statement that a response was timely filed and that the Office has received the fees for the filing. Also submitted is a statement of Carrie Stremming; a copy of the transmittal letters and of the extension of time checks; and a copy of the amendment filed January 28, 2004.

In considering petitioners' submission under 37 CFR § 1.8(b), the correspondence can be considered timely filed if petitioners meet at least three conditions:

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

The petition satisfies the requirement found in 37 CFR § 1.8(b). The petition is **GRANTED**.

The application will be forwarded to the Technical Support Staff for processing of the response to the Office action of October 8, 2003. Thereafter, the application will be forwarded to the examiner for consideration of applicants' amendment.

Jose A Ballato
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

[redacted]

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WASHINGTON, D.C. 20231
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Paper No. 4

RONALD CRAIG FISH
RONALD CRAIG FISH
A LAW CORPORATION
POST OFFICE BOX 2258
MORGAN HILL, CA 95038

COPY MAILED

FEB 26 2002

OFFICE OF PETITIONS

In re Application of	:	
Tuomo Syvanne	:	
Application No. 09/962,722	:	NOTICE
Filed: September 21, 2001	:	
Attorney Docket No. BER-020	:	

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

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

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

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

This file is being forwarded to Initial Patent Examination Division.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/8/05

TO SPE OF : ART UNIT 1642

SUBJECT : Request for Certificate of Correction on Patent No.: 6806051

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.

Lamonte Newsome
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.

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

Comments:

[signature] 1637
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
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JUN 12 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Mark I. Crohn
Olympic Patent Works, P.L.L.C.
P.O. Box 4277
Seattle, WA 98104

In re Application of
Kevin R. Marcus et al.
Application No. 08/962,744
Filed: September 24, 2001
For: METHOD AND APPARATUS FOR CONVERTING A GEOGRAPHIC LOCATION TO A DIRECT MARKETING AREA FOR A QUERRY

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on September 16, 2002 and supplemented on May 28, 2003. The delay in treating this petition is sincerely regretted.

The petition is **GRANTED**.

A review of the file record indicates that an Office action was mailed on January 11, 2002 wherein a three-month shortened statutory period for response was set. Since no timely response to the January 11, 2002 Office action was received, the application was held to be abandoned, and a notice to that effect was mailed on August 30, 2002.

Any petition to withdraw the holding of abandonment based upon a Returned Post Card must include the following requirements:

(1) A copy of the response and

(2) A copy of the postcard identifying the response including a USPTO Mail Room receipt date.

The returned postcard included in the petition bears a USPTO Mail Room receipt date of July 18, 2002. This is unacceptable evidence of a timely filed response since the six-month statutory period for response expired on July 11, 2002.

However, the copy of the response included with the petition includes a Certificate of Mailing dated July 11, 2002. A statement by Joanne Bourguignon was received on May 28, 2003, which attests to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, and then to the Examiner for prompt action on the merits of the application.

Randolph A. Reese, Special Programs Examiner
Patent Technology Center 3600
Telephone No.: (703) 308-2121
Facsimile No.: (703) 605-0586

RAR/tpl: 5/28/03

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Paper No. 7

KATHARINA WANG SCHUSTER
LUMEN INTELLECTUAL PROPERTY SERVICES
SUITE 110, 45 CABOT AVENUE
SANTA CLARA, CA 95051

COPY MAILED

MAY 0 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Xinqiao Liu et al	:	
Application No. 09/962,804	:	NOTICE
Filed: September 24, 2001	:	
Attorney Docket No. S99-060	:	

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

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

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

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

This file is being forwarded to Technology Center AU 2612.

Wan Laymon

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/01/10

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No 09/962,852.: 7340303B2

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)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

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: CORRECTS CLAIM DEPENDENCY ONLY.

Carl B. Layno
SPE

3766
Art Unit

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Alexandria, VA 22313-1450
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GLADYS H. MONROY
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Finn Skou Pedersen et al :
Application No. 09/962,855 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. A-70022/RMS/DCF :

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

The matter is being forwarded to Technology Center AU 1642 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Morrison & Foerster LLP
755 Page Mill Road
Palo Alto CA 94304-1018

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OFFICE OF PETITIONS

In re Application of	:	
Finn Skou Pedersen et al.	:	
Application No. 09/962,855	:	DECISION ON PETITION
Filed: September 24, 2001	:	TO WITHFRAW
Attorney Docket No. A-70022/RMS/DCF	:	FROM RECORD
	:	

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

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

A review of the file record indicates that the power of attorney to Morrison & Foerster has been revoked by the assignee of the patent application on August 26, 2005. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Novartis Vaccines and Diagnostics, Inc.
Corporate Intellectual Property
P.O. BOX 8097
EMERYVILLE CA 94662-8097

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

KLAUS J. BACH & ASSOCIATES
PATENTS AND TRADEMARKS
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

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JAN 1 1 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Klassen, et al.
Application No. 09/962,859
Filed: September 25, 2001
Attorney Docket No.: NI 135
For: METALLIFERROUS STORAGE MATERIAL FOR HYDROGEN AND METHOD FOR PRODUCING SAME

This is a decision on the petition filed November 16, 2001 requesting that Figures 7 and 8 be included in the above-identified application as having been present upon filing on September 25, 2001.

The application was deposited September 25, 2001. Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed on October 30, 2001. The Notice required submission of filing fees, executed oath or declaration, and surcharge for late filing of the oath or declaration. The Notice further stated that Figures 7 and 8 as described in the specification appeared to have been omitted from the application.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner argues that the application deposited September 25, 2001 included ten pages of formal drawings, including Figures 7 and 8, as indicated on the Office date-stamped return postcard, a copy of which petitioner has provided.

The original Figures 7 and 8 submitted with the application papers have not been located. However, in view of the evidence presented, the petition to include Figures 7 and 8 in the application is **GRANTED**.

The petition fee of $130.00 submitted with the instant petition is unnecessary. As per the authorization contained therein, a refund to deposit account No. 50-0465 has been requested from the

Office of Finance, Refund Section.

Since the original Figures 7 and 8 cannot be located in the Office, the copies supplied with the instant petition will be used for examination purposes.

This application will be forwarded to Office of Initial Patent Examination for further processing with a filing date of September 25, 2001.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

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JUN 25 2004

Office of the Director
Group 3600

INTELLECTUAL PROPERTY LAW DEPARTMENT CASE LLC
700 STATE STREET
RACINE WI 53404

In re Application of
Eric Sharkness et al.
Application No. 09/962,894
Filed: September 25, 2001
For: ELECTRONIC CONTROL FOR SWING DAMPING

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on March 24, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the non-final Office action mailed January 14, 2003 and a Notice to that effect was mailed on February 20, 2004.

Petitioner states that a response was filed on May 20, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated May 20, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

The copy of the facsimile confirmation page having the May 20, 2003 date cannot be relied upon as proof of timely filing the response. See section 512 of the MPEP.

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

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

SNM/mjz: 6/1/04

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CNH America LLC
Intellectual Property Law Department
700 State Street
Racine, WI 53404

MAILED
FROM DIRECTORS OFFICE
AUG 05 2004
TECHNOLOGY CENTER 3600

In re Application of
Eric Sharkness et al.
Application No. 09/962,894
Filed: September 25, 2001
For: ELECTRONIC CONTROL FOR SWING DAMPING

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on July 7, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on May 20, 2003 . and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/vdb: 7/27/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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Paper No. 9

DAVID E. SPAW
RANKIN HILL PORTER & CLARK LLP
700 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1405

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AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Christoph Ludi :
Application No. 09/962,900 :
Filed: September 25, 2001 :
Attorney Docket No. FRR-12681

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 2600.

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

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

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of
R. Ritter
Application No. 09/962,901
Filed: September 25, 2001
Attorney Docket No. **33940**

DECISION ON PETITION

This is a decision on the petition filed September 18, 2006 under 37 C.F.R. § 1.181 & MPEP § 1002.02(b)(16) TO OBTAIN WITHDRAWAL OF HOLDING OF ABANDONMENT.

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

Any request for reconsideration pursuant to § 1.181 must be filed within TWO (2) MONTHS of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). Extensions of time under § 1.136(a) are not permitted.

Petitioner is not precluded from filing a petition to revive pursuant to 37 CFR 1.137.

In response to a Final Office Action mailed September 3, 2003, an amendment was filed December 5, 2003 bearing a certificate of mail date of September 3, 2003. By way of advisory action mailed January 14, 2004, petitioner was advised that the response did not place the application in condition for allowance. No response and appropriate extensions of time were filed and thus the application became abandoned December 2003. Accordingly, a Notice of Abandonment was mailed May 3, 2004.

Subsequent to the mailing of the May 3, 2004, Notice of Abandonment, a letter was mailed by the United States Patent and Trademark Office (USPTO) on October 12, 2004, withdrawing the May 3, 2004 Notice of Abandonment. Thereafter, an office action (restriction requirement) which set a one month period for reply was mailed on April 11, 2006 and a response was filed with a one month extension of time on May 31, 2006. In response thereof, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed August 24, 2006. Although a response was filed September 11, 2006 and supplemented on November 6, 2006, a Notice of Abandonment was mailed January 25, 2007 based on a failure to file a proper reply to the September 3, 2003 office action.

Applicants filed the instant petition, asserting that the Notice of Abandonment mailed January 25, 2007 was improperly mailed in view of the letter mailed October 12, 2004, withdrawing the May 3, 2004 Notice of Abandonment.

Upon review of petitioner's arguments and the office record, the showing of record is insufficient to warrant withdrawal of the holding of abandonment.

The Relevant Law, Regulations, and Portion of the MPEP

37 C.F.R. §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.

MPEP §502.03(V): Interviews.

Internet e-mail shall NOT be used to conduct an exchange of communications similar to those exchanged during telephone or personal interviews unless a written authorization has been given under Patent Internet Usage Policy Article 5 to use Internet e-mail. In such cases, a paper copy of the Internet e-mail contents MUST be made and placed in the patent application file, as required by the Federal Records Act, in the same manner as an Examiner Interview Summary Form is entered.

The Office cannot view the emails between the applicant and the examiner of record at the time as an acceptable method of exchanging information similar to a telephone or personal interview: the electronic file does not appear to contain a written authorization under Patent Internet Usage Policy Article 5 to use Internet e-mail, as required by MPEP §502.03(V). As such, Petitioner's communication with the Examiner lies outside of the official channels of communication.

It appears that the letter mailed October 12, 2004, withdrawing the May 3, 2004 Notice of Abandonment was sent in error as the application was properly abandoned by operation of law and thus the application should not have been returned to pending status in the absence of a petition filed under 37 CFR 1.181 or 37CFR 1.137.

The record does not support a finding that there was just cause for a withdrawal of the abandonment and as such, under the circumstances, the holding of abandonment is proper and will not be withdrawn.

No fee is required on petition under § 1.181.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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DEC 11 2007

OFFICE OF PETITIONS

In re Application of
R. Ritter
Application No. 09/962,901
Filed: September 25, 2001
Attorney Docket No. **33940**

DECISION ON PETITION

This is a decision on the petition request for reconsideration filed August 28, 2007, which is being treated under 37 C.F.R. § 1.181 & MPEP § 1002.02(b)(16) TO OBTAIN WITHDRAWAL OF HOLDING OF ABANDONMENT.

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

In response to a Final Office Action mailed September 3, 2003, an amendment was filed December 5, 2003 bearing a certificate of mail date of September 3, 2003. By way of advisory action mailed January 14, 2004, petitioner was advised that the response did not place the application in condition for allowance. No response and appropriate extensions of time were filed and thus the application became abandoned December 2003. Accordingly, a Notice of Abandonment was mailed May 3, 2004. Subsequent to the mailing of the May 3, 2004, Notice of Abandonment, a letter was mailed by the United States Patent and Trademark Office (USPTO) on October 12, 2004, withdrawing the May 3, 2004 Notice of Abandonment. Thereafter, an office action (restriction requirement) which set a one month period for reply was mailed on April 11, 2006 and a response was filed with a one month extension of time on May 31, 2006. In response thereof, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed August 24, 2006. Although a response was filed September 11, 2006 and supplemented on November 6, 2006, a Notice of Abandonment was mailed January 25, 2007 based on a failure to file a proper reply to the September 3, 2003 office action. A petition filed September 18, 2006 was dismissed in a decision mailed June 28, 2007 because based on the record, it was determined that the letter mailed October 12, 2004, withdrawing the May 3, 2004 Notice of Abandonment was sent in error as the application was properly abandoned by operation of law and thus the application should not have been returned to pending status in the absence of a petition filed under 37 CFR 1.181 or 37CFR 1.137.

Petitioner's arguments for withdrawing the abandonment are based on emails from the then Examiner of Record wherein the Examiner agreed that withdrawal of the finality of the Office Action was in order.

While the Office stands by it's opinion that petitioner's communication with the Examiner in the emails lies outside of the official channels of communication, based on a confirmation from the Supervisory Patent Examiner James Kramer, it is agreed that the evidence is convincing of the then Examiner's intention to withdraw the finality. In view thereof, the application should not have been held abandoned. The Notice of Abandonment was sent in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 3693 for appropriate action on the response filed December 3, 2003 to the September 3, 2003 Office Action and for further examination in due course.

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

Paper No. 6

PILLSBURY WINTHROP LLP
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

COPY MAILED

APR 28 2003

OFFICE OF PETITIONS

In re Application of :
Yi-Hsiu Wang, et al. :
Application No. 09/962,912 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. 07316/0259661 (ATH-052) :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 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 29, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 31, 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), 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.

The verified statement claiming small entity status of April 14, 2003, has been made of record and small entity status has been accorded. A corrected filing receipt is enclosed for applicant's convenience.

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

RONALD J. BARON
HOFFMANN & BARON
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OCT 0 1 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Dilip Chokshi
Application No. 09/962,917
Filed: September 25, 2001
Attorney Docket No. 1114-4

This is a decision on the petition, filed via fax on September 30, 2003,[1] under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 18, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[2]

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

---

[1] The petition originally filed on July 7, 2003 has not to date been received by the appropriate official.

[2] 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).

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1654 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 TRADEMARK OFFICE

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

WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON, VA 20190

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,071,227 :
Issue Date: July 4, 2006 :
Application No. 09/962,923 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. 35724/238002 :

This is a decision on the petition under 37 CFR 1.182, filed October 19, 2006, to correct the spelling of one of the joint inventor's name by way of a Certificate of Correction. Petitioner also request that the inventor's address be changed.

A review of the record shows that there was no error in the address printed on the patent, as the address is consistent with the address provided in the declaration at the time of filing this application. Since a certificate of correction is only for the purpose of correcting an error in the patent, the address will not be changed.

The petition is **granted** to the extent indicated.

USPTO records will be corrected as follows:

> The inventor's name will be changed from "IBRAHIM SHAWKY ABD ELZAEM" to "IBRAHIM SHAWKY ABD-ELZAEM"

Since it appears that the $100 fee for the Certificate of Correction has not been paid, the $100 fee and the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

The file is being referred to Certificates of Correction Branch for issuance of the Certificate of Correction. A corrected Filing Receipt is enclosed.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Any questions relating to the issuance of the Certificate of Correction should be directed to Certificates of Correction Branch at (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
09/962,923	09/25/2001	1625	939	35724/238002	38	4

CONFIRMATION NO. 7484

30743
WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON, VA 20190

CORRECTED FILING RECEIPT

OC000000023134369

OC000000023134369

Date Mailed: 03/27/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Ru Chih C. Huang, Baltimore, MD;
Ibrahim Shawky Abd-Elazem, Baltimore, MD;
Hong Shan Chen, Beijing, CHINA;

Assignment For Published Patent Application

Johns Hopkins University

Power of Attorney: The patent practitioners associated with Customer Number **30743**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/235,425 09/26/2000

Foreign Applications

If Required, Foreign Filing License Granted: 11/14/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/962,923

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

ANTIVIRAL COMPOSITIONS AND METHODS OF USE

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed

by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of :
John Thomson et al :
Application No. 09/962,928 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. 073169/0259671

This is a decision on the petition, filed January 23, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 8, 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 2637 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

cc: Jeanette S. Harms
Bever, Hoffman & Harms, LLP
2099 Gateway Place, Suite 320
San Jose, CA 95110

[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).

OIPE
MAR 24 2005
PATENT & TRADEMARK OFFICE

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

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

Application Number	09/962,929
Filing Date	September 24, 2001
First Named Inventor	Finn Skou PEDERSEN
Art Unit	1642
Examiner Name	S. Rawlings
Attorney Docket Number	529452000320

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

[X] 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:
This request is being made at the request of Sagres Discovery, Inc.

APPROVED

WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER
4/12/05

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number: [ ]

OR

[X] Firm or Individual Name	Gwilym Attwell (Cozen O'Connor)				
Address	1900 Market Street				
City	Philadelphia	State	Pennsylvania	Zip	19103
Country					
Telephone			Fax		
Signature	Gladys Monroy				
Name	Gladys H. Monroy		Registration No.		32,430
Date	March 21, 2005		Telephone No.		(650) 813-5711

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.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: March 21, 2005 Signature: Martina Placid (Martina Placid)

pa-965791

UNITED STATES 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
FROM DIRECTORS OFFICE

AUG 2 0 2004

TECHNOLOGY CENTER 3600

DAVID E. BROOK, ESQ
HAMILTON, BROOK, SMITH, & REYNOLDS, P.C.
TWO MILITIA DRIVE
LEXINGTON, MA 02421-4799

In re application of : **DECISION ON PETITION**
Joel J. Rubenstein : **TO MAKE SPECIAL**
Application No. 09/962931 : **(APPLICANT'S AGE)**
Filed: September 25, 2001 :
For: INNOVATIONS IN HEALTH INSURANCE

This is a decision on the petition submitted on July 19, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a birth certificate establishing that Mr. Rubenstein is at least 65 years of age.

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.

Best Available Copy

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

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

KJD/slb: 8/12/04

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

DOMINIK J. SCHMIDT
P.O. BOX 20541
STANDFORD CA 94309

COPY MAILED

FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Schmidt, Dominik J. :
Application No. 09/962,937 : ON PETITION
Filed: September 21, 2001 :
Attorney Docket No. AIR1P016 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed January 17, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 18, 2003. A Notice of Abandonment was mailed February 2, 2004.

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

The Notice of Appeal filed September 27, 2004, 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.

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

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

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

cc: BAO TRAN
TRAN & ASSOCIATES
6768 MEADOW VISTA COURT
SAN JOSE, CA 95135

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

COPY MAILED

SEP 08 2006

OFFICE OF PETITIONS

In re Application of :
Thomas Lich et al :
Application No. 09/962,948 : DECISION ON PETITION
Filed: September 24, 2001 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 10191/2003 :

This is a decision on the petition, filed August 16, 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.

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.

Petitioner requests a refund of the issue and publication fees received in the USPTO on August 3, 2006.

Petitioner is advised that a refund may be requested **if the examiner has withdrawn the application from issue for the purpose of reopening prosecution.** However, in the instant application, the examiner has not reopened prosecution of the application.

Petitioner's attention is further directed to 37 CFR 1.26(a) which states:

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

The payment of the issue fee was owed and required by law at the time of payment thereof. Therefore, payment was not made by mistake or in excess of that required nor was there a mistake in payment as contemplated by 37 CFR 1.26(a). As to the request for refund of the publication fee, this fee was owed in view of the publication of this application on January 30, 2003. Accordingly, as this fee was owed for the publication of this application, this fee likewise is not refundable.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF DALE B. HALLING
SUITE 311
24 SOUTH WEBER ST.
COLORADO SPRINGS, CO 80903

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of :
Harry George Direen Jr. :
Application No. 09/962,952 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. NEO-0102 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 12, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 13, 2005.

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

This matter is being referred to Technology Center AU 2187 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

COLEMAN SUDOL SAPONE PC
714 COLORADO AVENUE
BRIDGEPORT CT 06605-1601

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MAY 1 0 2004

OFFICE OF PETITIONS

In re Application of
Bruce Cagner
Application No. 09/962,966
Filed: September 24, 2001
Attorney Docket No. B35-011

ON PETITION

This is a decision on the paper titled "Petition for Revival Under 37 CFR 1.137(b) and Petition Under 37 CFR 1.183 to Suspend Rule", filed April 26, 2004 (Certificate of Mailing dated April 21, 2004). The petition is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

This application was held abandoned for failure to timely reply to the non-final Office action mailed September 12, 2003. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on December 13, 2003. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With his petition, applicant has supplied a copy of an amendment, bearing a Certificate of Mailing under 37 CFR 1.8, dated December 11, 2003.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

Given the basis for granting this petition, the fees for the 37 CFR 1.137(b) petition ($665) and the 37 CFR 1.183 petition ($130) have been refunded to Deposit Account No. 04-0838.

The application file is being forwarded to Group Art Unit 3653 for consideration of the amendment filed April 26, 2004 (Certificate of Mailing dated December 11, 2003).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Siamak Sarbaz et al. :
Application No. 09/962,968 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No.: 005376.P001

This is a decision on the petition filed April 17, 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 February 24, 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 May 25, 2005. Accordingly, a Notice of Abandonment was mailed September 1, 2005.

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

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

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

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

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

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

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LANXESS CORPORATION
111 RIDC PARK WEST DRIVE
PITTSBURGH PA 15275-1112

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Andrea Schlegel et al.
Application No. 09/962,971
Filed: September 25, 2001
Attorney Docket No: Mo-6606/LeA 35,338

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

The petition to revive under 37 CFR 1.137(a) is **GRANTED**.

The application was held abandoned on December 3, 2004, for failure to file a timely response to the Final Office Action mailed June 2, 2004. The office action set a three month shortened statutory period. Accordingly, a Notice of Abandonment was mailed on March 18, 2005, after the filing of the instant petition.

Petitioner asserts that a response to the Final Office Action, a Request for Continued Examination (RCE) and a request for a one month extension of time request, was timely filed by facsimile transmission and has submitted a copy of the reply said to have sent but not received in the U.S. Patent and Trademark Office. The document contains a certificate of transmission pursuant to 37 CFR 1.8, dated December 2, 2004, and signed by petitioner's counsel, Godfried Akorli.

The RCE fee in the amount of $395.00 has been charged to deposit account no 50-2527. An extension of time fee was submitted December 2, 20004 with the RCE and a

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

duplicate fee on March 16, 2005 with the instant petition. Deposit account no. 50-2527 will be credited in the amount of $510.00 for the duplicate fees paid.

This matter is being referred to Technology Center 1724 for processing of the RCE and amendment filed December 2, 2004 and resubmitted March 16, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 6

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

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FEB 1 4 2003

Technology Center 2600

In re Application of :
Eric Cheng :
Application No. 09/962,979 :
Filed: September 24, 2001 :
For: **CONTROL SYSTEM FOR DIGITAL SOUND EFFECT AND THE METHOD OF THE SAME** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on December 11, 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: Chun M. Ng, Esq.
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

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MIN, HSIEH & HACK LLP
8270 GREENSBORO DRIVE
SUITE 630
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Rathjen et al.	:	
Application No. 09/962,985	:	ON PETITION
Filed: September 24, 2001	:	
Attorney Docket No.	:	
0022.0001	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) or (a)(6), filed July 27, 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 properly treated under 37 CFR 1.78(a)(6).

The petition is **DISMISSED**.

An unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of a prior-filed provisional application is only appropriate where the application seeking the benefit has an inventor or inventors named in the provisional application for which the benefit is sought.

In the instant case, the above-identified application does not have an inventor who was named in the provisional application, no. 60/501,274, for which the benefit is sought. As such, the petition is dismissed.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Frances Hicks

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

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OFFICE OF PETITIONS

In re Application of	:	
Rathgen et al.	:	
Application No. 09/962,985	:	ON PETITION
Filed: September 24, 2001	:	
Attorney Docket No.	:	
0022.0001	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed September 27, 2005, 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 nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-fiiled provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/235,434, which was filed on September 26, 2000, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional 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)(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. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), 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)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Petitions Attorney Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2174 for appropriate action on the amendment submitted September 27, 2005, 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. 60/235,434.

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

ATTACHMENT: Corrected Filing Receipt

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Jeffrey C. Hood
Conley, Rose & Tayon, P.C.
P.O. Box 398
Austin, TX 78767

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OFFICE OF PETITIONS

In re Application of :
Ramani, et al. : LETTER REGARDING PTA
Application No. 09/962,995 :
Filed: September 25, 2001 :
Atty. Dkt. No.: 5181-86300 :

This letter is in response to the "COMMENTS REGARDING PATENT TERM ADJUSTMENT CALCULATION" filed April 20, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention. No fee is due in connection with this matter.

Applicants state that the patent term adjustment indicated on the Notice of Allowance may be longer than appropriate. Applicants do not, however, set forth the basis of this concern.

The calculation of patent term adjustment has been reviewed and no error has been detected.

In accordance with 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1), an adjustment of 297 days can be attributed to the Office. The delay began November 26, 2002, the day after the date that is fourteen months after the date on which the application was filed, and ended September 18, 2003, the date of mailing of non-final Office action.

In accordance with 37 C.F.R. § 1.704(b), the adjustment of 297 days is reduced 36 days for applicants' failure to engage in reasonable efforts to conclude prosecution. The reduction began December 19, 2003, the day after the date that is three months after the date that the non-final Office action was mailed, and ended January 23, 2004, the date a response to the non-final Office action was filed.

The adjustment of 297 days is further reduced 32 days in accordance with 37 C.F.R. § 1.704(b). The reduction began July 2, 2004, the day after the date that is three months after the

date of mailing of final Office action, and ended August 2, 2004, the date a notice of appeal was filed.

Accordingly, the patent term adjustment remains 229 days as set forth in the Determination of Patent Term Adjustment mailed January 28, 2005.

If applicants are still of the belief that a error exists in the calculation of patent term adjustment, applicants are requested to renewed the instant "Comments Regarding Patent Term Adjustment Calculation" setting forth with specificity the nature of the alleged miscalculation.

This application 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 (571) 272-3205.

/Kery A. Fries/
for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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OFFICE OF PETITIONS

In re Application of	:	
Bogan, Bors, Cavalcanti, Han,	:	
Jacobs, Kaiser, Klugherz, Lin, and	:	
Zolotorofe	:	DECISION REFUSING STATUS
Application No. 09/962,998	:	UNDER 37 CFR 1.47(a)
Filed: 25 September, 2001	:	
Attorney Docket No. A01106	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 13 February, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 September, 2001, with a declaration naming Leonard Edward Bogan, Jr., Daniel A. Bors, Fernando Antonio Pessoa Cavalcanti, Scott Han, Bradley Anson Jacobs, Frederick William Kaiser, Peter David Klugherz, Manhua Lin, and Donald Lee Zolotorofe as joint inventors and signed by all of the joint inventors except Lin on behalf of themselves and joint inventor Lin.

Accordingly, on 22 October, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an oath or declaration with the signature of inventor Lin and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 13 February, 2002 (certificate of mailing date 19 December, 2001), petitioners filed the present petition, accompanied by the petition fee.

Petitioners state that joint inventor Lin refuses to sign the declaration.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

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

The petition lacks item (1) and (2). In regards to item (1), petitioners have not provided proof that Lin was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration). The letter to Lin's attorney states that the application will be sent after Dr. Lin agrees to sign a confidentiality agreement. However, in order for a Rule 47 petition to be granted, regardless of whether or not the inventor signs a confidentiality agreement, the inventor **must** be sent or given a copy of the application papers.

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.

In regards to item (2), the declaration contains is defective in that it contains non initialed and/or non-dated alterations.[1] Specifically, there is are unsigned and/or undated changes for joint inventor Cavalcanti. A supplement oath or declaration identifying the entire inventive entity in compliance with 37 CFR 1.63 and 1.67, signed by the inventor to whom the error or deficiency relates is required.[2]

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] See 37 CFR 1.52(c).

[2] 37 CFR 1.67(a)(2).

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Paper No. 17

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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AUG 04 2003

OFFICE OF PETITIONS

In re Application of :
Bogan et al :
Application No. 09/962,998 : ON PETITION
Filed: September 25, 2001 :
For : RECYCLE PROCESS :

This is a decision on the petitions filed on 8 April, 2003, which are being treated as (1) a petition under 37 CFR 1.137(b) to revive the above-identified application, (2) a petition under 37 CFR 1.47(a) to accord this application status in the absence of the signature of joint inventor Lin, (3) a petition under 37 CFR 3.71 by the alleged assignee of the entire interest to intervene in the prosecution, which is being treated as a petition under 37 CFR 1.181 seeking acknowledgment on the record that there is an assignee of the entire interest and that assignee has in fact intervened, (4) a petition on behalf of the alleged assignee of the entire interest under 37 CFR 1.182 to expunge any papers filed by non-signing joint inventor Lin, and (5) a petition on behalf of the alleged assignee of the entire interest under 37 CFR 1.181 and MPEP 106 to control inspection of the file by non-signing joint inventor Lin.

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

The petition under 37 CFR 1.47(a) to accord this application status is **granted.**

The petition under 37 CFR 1.181 to acknowledge intervention by the alleged assignee of the entire interest is **dismissed.**

The petition under 37 CFR 1.182 to expunge any papers filed by Lin is presently **dismissed**, subject to reinstatement under 37 CFR 1.59 as necessary.

The petition under 37 CFR 1.181 and MPEP 106 by the alleged assignee of the entire interest to control inspection of the file by Lin is **dismissed.**

The above-identified application papers were deposited on 25 September, 2001. However, on 22 October, 2001, the Office of Initial Patent Examination mailed a Notice stating that while a filing date had been granted to these papers, applicant had two months to supply the missing signature of joint inventor Ms. Manhua Lin (Lin), and pay the late completion surcharge. A petition under 37 CFR 1.47(a) was filed on 13 February, 2002 (certificate of mailing 19 December, 2001), and was dismissed on 14 May, 2002. In the absence of any reply to the decision on petition mailed on 14 May, 2002, which set a two (2) month period for reply, this application apparently became abandoned by operation of 35 USC 111(a)(4) at midnight on 15 July, 2002. Notice of Abandonment was mailed on 16 December, 2002.

With respect to petition under 37 CFR 1.137(b)

As petitioners have submitted the requisite petition fee and a grantable petition under 37 CFR 1.47(a), the petition is **granted**.

With respect to the petition under 37 CFR 1.47(a) to accord this application status:

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 and OIPE is authorized to

(1) accept this application under 37 CFR 1.47(a);

(2) process this application with the inventors being Bogan, Bors, Cavalcanti, Han, Jacobs, Kaiser, Klugherz, and Zolotorofe using the declaration present on filing; and

(3) mail a filing receipt with a filing date of September 25, 2001.

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

With respect to the petition under 37 CFR 1.181 to acknowledge intervention by the assignee of the entire interest:

A review of USPTO assignment records fails to reveal that any assignment of Lin's interest in either the above-identified non provisional application, or of prior provisional application No. 60/236,142 (which would carry to the instant application, per MPEP 306.01) has been recorded at the USPTO. Furthermore inspection of the assignment proffered with the instant petition (second Exhibit 1) reveals that while Bogan, Bors, Cavalcanti, Han, Jacobs, Kaiser, Klugherz, and Zolotorofe have conveyed their rights in this application to Rohm & Haas, Lin has not executed that document. Accordingly in the absence of any assignment of Lin's rights in either the provisional or instant non provisional application, Lin will be presumed to have retained her rights in these applications.[1] It follows that Rohm & Haas is not the assignee of the entire interest in the above-identified application within the meaning of 37 CFR 3.71(a)(1). Rather, Rohm & Haas plus Lin jointly in combination own the entire interest in this application, and as such Rohm & Haas is a partial assignee by virtue of its ownership of less than the entire interest in this application.[2] As such, Rohm & Haas has not shown to the satisfaction of the USPTO that it may intervene to the exclusion of Lin within the meaning of 37 CFR 3.73(b) and MPEP 324, since only the owner of the *entire* interest in an application has the sole right to control prosecution of that application.[3]

The employment and confidentiality agreement proffered with the petition (first Exhibit 1) merely sets forth Lin's obligation to assign inventions made in the future and is not an assignment of this application. Inspection of the aforementioned agreement, as it is dated (1989) before the filing of the above-identified application (in 2001), such agreement clearly does not reference this *application* with any specificity, and furthermore, is a contract related to Lin's employment.[4]

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[1] See 37 CFR 3.73(a).

[2] See 37 CFR 3.71(b)(2).

[3] See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924).

[4] A distinction must be made between a property right to an "invention," and a property right to a patent *application*, as a given patent *application* may or may not embody that "invention." Insofar as this case is concerned, the relevant statutes and regulations only speak to the recordation of the assignment of "applications for patent", not inventions. See, e.g., 35 USC § 261 and 37 CFR 3.11 *et seq.* Likewise, while 35 USC § 100 defines invention, § 100 does not define invention as being

An agreement to assign in the future inventions not yet developed may vest the promisee with equitable rights in those inventions once made; however, such an agreement does not by itself vest legal title to patents on the inventions in the promisee.[5] Further in this regard, the PTO has consistently interpreted the applicable statutes and regulations relating to the recording and effect of assignment documents in the USPTO as applying only to instruments which on their face affect title to a patent or *application*.[6] It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes.[7] Rather, the USPTO has no authority to decide ownership issues.[8] Accordingly, the USPTO will not determine whether Lin's position at Rohm & Haas operated to convey her rights in the "invention" of this *application* to Rohm & Haas. The petition seeking that the USPTO acknowledge that Rohm & Haas is the assignee of the entire interest, and, as such that Rohm & Haas as the alleged assignee of the entire interest has intervened to the exclusion of Lin, must be dismissed.

With respect to the petition under 37 CFR 1.182 to expunge any papers filed by Lin:

As to the request that any communication(s) (to be) filed by or on behalf of the inventor be automatically expunged, that request is problematic and cannot be granted as a matter of course. Likewise, a named inventor of this or any application may have information to disclose under 37 CFR 1.56. Nevertheless, petitioner is advised that should any of petitioner's trade secret or proprietary information be submitted herein, petitioner

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synonymous with, or meaning, "application for patent." This distinction is further evident from inspection of other sections of Title 35: e.g., 35 §§ 111, 119, 120, 121, 131.

[5] See, Arachnid, Inc. v. Merit Industries, Inc. 939 F.2d 1574, 1580 19 USPQ2d 1513, 1518 (Fed. Cir. 1991).

[6] See In re Farrand, 1912 C.D. 227 (Comm'r Pat. 1912); In re Charlton, 1903 C.D. 159 (Comm'r Pat. 1903).

[7] See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892).

[8] See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), cert. denied, 114 S. Ct. (1994).

may specifically identify such material and seek removal pursuant to 37 CFR 1.59.

With respect to the petition under 37 CFR 1.181 and MPEP 106 to control inspection of the file by Lin:

As noted above, since Rohm & Haas has not shown on the record that it is the assignee of the entire interest, then Rohm & Haas cannot control prosecution of this application to the exclusion of Lin. Lin retains her ownership interest. As such, Rohm & Haas is not qualified to, and may not, control inspection of this application within the meaning of MPEP 106. Lin will not be excluded from inspection of this application.

The associate Power of Attorney filed on 30 May, 2003, cannot be accepted because it has not been signed by an attorney of record.[9]

Counsel's deposit account, No. 18-1850, has been charged the petition to revive fee of $1,300.00 as well as the fee of $130.00 for the petition under 37 CFR 1.182.

This application, having been accorded Rule 47 status, is being forwarded to OIPE for further processing.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

[9] MPEP 402.02.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

COPY MAILED

JUN 27 2005

OFFICE OF PETITIONS

In re Application of
Bogan et al.
Application No. 09/962,998
Filed: September 25, 2001
For: RECYCLE PROCESS

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.59 filed May 26, 2005, requesting closure of the documents filed by non-signing inventor Manhua Lin (Lin) filed June 25, 2004, and February 23, 2005.

A decision on the petition is being held in abeyance pending any reply to this communication.

Any request for reconsideration of this decision must be submitted within ONE (1) MONTH from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) or (b) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.59."

Subsequent to the filing of the instant petition, on June 20, 2005, Lin filed a document which, in essence, opposes any favorable USPTO treatment of the petition. In the interest of administrative economy and completeness, the USPTO will afford petitioner an opportunity to review the aforementioned document and file any comments or answer that petitioner should desire. For petitioner's convenience a copy of the document is enclosed. If no reply is received within the period set a decision will be rendered on the record as it currently stands.

Any renewed petition may be addressed as follows:

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

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

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

Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

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

Enclosure: Copy of Document filed June 20, 2005 by Lin

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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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Bogan et al. :
Application No. 09/962,998 : DECISION ON PETITION
Filed: September 25, 2001 :
For: RECYCLE PROCESS :

This is a decision on the petition under 37 CFR 1.59 filed May 26, 2005, and supplemented on July 27, 2005, which are collectively being treated as a petition requesting closure of the documents filed by non-signing inventor Manhua Lin (Lin) on June 25, 2004, February 23, 2005, and June 20, 2005.

The petition is granted.

Petitioner requests that the above-mentioned communications filed by non-signing inventor Lin, be expunged or made inaccessible in this Image file Wrapper (IFW) case. The reasons set forth in the petitions establish to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Any inquiries concerning this communication may be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

TRASKBRITT, PC
P.O. BOX 2550
Salt Lake City, UT 84110

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AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Tanner et al. :DECISION DISMISSING
Application No. 09/963,021 :PETITION
Filed: September 25, 2001 :
Attorney Docket No. 3939US :

This is a decision on the "Petition for Change of Filing Date" filed on April 16, 2002, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of September 24, 2001, rather than the presently accorded filing date of September 25, 2001.

Petitioner alleges that the application was deposited in Express Mail service on September 24, 2000. In support, on April 16, 2002 petitioner supplied a copy of Express Mail receipt No. EL740537366US. The number on the Express Mail receipt differs from the Express Mail number (EL740537352US) found on the itemized transmittal sheet accompanying the original application papers located in the official file. Petitioner has also provided a copy of a post card receipt.

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show 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 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 papers or fees 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.

The instant petition lacks the showing required by item (3).

Petitioner has not provided a true copy of the "Express Mail" receipt that corresponds to the number of the "Express Mail" label placed on application transmittal form. The placement of the Express Mail label number on a paper ties the paper to a single, identifiable Express Mail receipt. Where questions are later raised concerning the filing date of the paper, the PTO may require the applicant to supply a copy of the Express Mail receipt identified on the paper in order to verify the mailing date. The post card receipt can not serve to meet the requirements of 37 CFR 1.10. The PTO has no way of independently associating the paper with any particular Express Mail receipt. As such, the PTO has nothing in its control from the filing date of the papers to independently corroborate the applicants' assertion that the application was filed on September 24, 2001.

This application is being forwarded to the Office of Initial Patent Examination with a filing date of September 25, 2001.

Telephone inquiries specific to this matter should be directed to the Charlema R. Grant at (703) 306-0251.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TRASKBRITT, PC
P.O. BOX 2550
Salt Lake City, UT 84110

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NOV 0 8 2002

OFFICE OF PETITIONS

In re Application of :
Tanner et al. :
Application No. 09/963,021 : DECISION ON
Filed: September 25, 2001 : PETITION
Attorney Docket No.3939US :

This is a decision on the renewed petition filed October 7, 2002, requesting that the above-identified application be accorded a filing date of September 24, 2001, instead of the presently accorded filing date of September 25, 2001.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on September 24, 2001, pursuant to the requirements of 37 CFR 1.10. Petitioners assert that the application was deposited with the USPS Express on September 24, 2001. In support, petitioners supplied a copy of Express Mail label EL740537352US which bears a "date in" of September 25, 2001. The petition is also accompanied by a copy of the Utility Patent Application Transmittal form with the above-mentioned Express Mail number.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date.[1] (emphasis added)

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing

[1] See 37 CFR 1.6(a).

date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
(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 showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

A review of the copy of the Express Mail receipt EL740537352US indicates a "date in" of September 25, 2001, the Official U. S. Postal Stamp shows the date received as September 24, 2001. The Official Stamp thereby will be used to corroborate petitioner's claim of deposit prior to September 25, 2001.

In view thereof, the petition is GRANTED.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to September 24, 2001.

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

Telephone inquiries may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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NOV 15 2005

OFFICE OF PETITIONS

In re Application of
Quinones
Application No. 09/963,049
Filed: September 24, 2001
Attorney Docket No. 018865-006400US

: DECISION GRANTING PTA
:APPLICATION

This decision is in response to applicant's APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) timely[1] filed on March 9, 2005 requesting that the Office adjust the PTA calculation at the time of the mailing of the notice of allowance from a determination of ZERO (0) days to a determination of one hundred and thirty-four (134) days.

Applicants" application for PTA is **GRANTED.** The Office will adjust the PTA calculation found in PAIR to reflect that at the time of the mailing of the notice of allowance the correct amount of PTA is ONE HUNDRED AND THIRTY-FOUR (34) days as suggested by applicants.

Applicants argue that the correct amount of Office delay is one hundred and sixty-nine (169) days for the Office's failing to provide a response within fourteen months of the filing date pursuant to 37 CFR 1.702(a)(1). In addition, applicants assert that the applicants failed to respond to the final rejection within three months and thereby acknowledge a thirty-five day reduction. Applicants do not mention the three hundred and seven day reduction for late reply to the filing of missing parts notice. However, applicants appear to be contesting any reduction other than the thirty-five (35) day reduction under 37 CFR 1.704(b).

Applicants are correct in their determination. The Office notes that there is no disagreement as to the 169 days of Office delay and 35 days of applicants delay. As to the 307 days of reduction (applicant delay) based upon applicants failure to respond to the notice to file missing parts within three months, the Office notes that the record shows that applicants actually did respond within the three-month time frame.[2] Accordingly, the Office erred in assessing a 307 day reduction for the reply to the notice to file missing parts. Therefore, the actual correct amount of PTA is 134 (169-35=134) days.

---

[1]Issue fee paid on April 19, 2005.

[2]The notice mailed 10/25/05 was replied to on November 28, 2001. However, the Office errantly entered such date as November 28, 2002.

Application No. 09/963,049

After the mailing of this decision, the Office will forward this application to the Office of Patent Publication for a prompt issuance of the patent. Any delay in issuing the application beyond four months of the payment of the issue fee will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

The Office has assessed the $200.00 fee to Deposit Account 20-1430. No additional fees are required in filing the application for PTA.

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

Kery Fries

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

cc: Adjusted PAIR calculation

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ALEXANDRIA, VA 22313-1450
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Paper No. 9

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street, Suit 1800
Arlington, VA 22209

OCT 17 2003

In re Application of:	:	
LaVALLE *et al.*	:	
Serial No.: 09/963,055	:	DECISION ON REQUEST TO WITHDRAW
Filed: September 26, 2001	:	FROM RECORD
Attorney Docket No.: **219.40235X00**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 21, 2003.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys associated with Customer No. 21186, was filed on September 30, 2003. 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 Clayton E. LaBalle at (703) 308-0519.

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

Enclosure: Copy of Request for Withdrawal as Attorney or Agent for the application file maintained by the attorneys of record.

cc: SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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MAR 17 2004

Office of the Director
Group 3600

Charlie Kulas
Carpenter and Kulas, L.L.P.
1900 Embarcadero Road
Suite 109
Palo Alto, CA 94303

In re application of:
Li-Wen Chen
Application No. 09/963,062
Filed: September 24, 2001
For: USER INTERFACE AND METHOD FOR ANALYZING: CUSTOMER BEHAVIOR...

Paper No. 7

: **DECISION ON REQUEST**
: **FOR WITHDRAWAL OF**
ATTORNEY

This is a decision on the request filed on February 2, 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 as moot because power of attorney to the attorney making the request has already been withdrawn as per the request for withdrawal filed on October 14, 2003.

The request to withdraw as attorney also lacks condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

For this decision only a copy of this decision will be sent to the address of the requesting attorney. No other future documents will be sent to any address different than the correspondence address of record.

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

SNM/mjz: 3/15/04

cc:

Squire, Sanders & Dempsey L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLIE KULAS
CARPENTER AND KULAS, L.L.P.
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

COPY MAILED

MAY 04 2006

OFFICE OF PETITIONS

In re Application of :
Li-Wen Chen :
Application No. 09/963,062 : DECISION ON PETITION
Filed: September 24, 2001 : TO WITHDRAW
For: USER INTERFACE AND METHOD FOR : FROM RECORD
ANALYZING CUSTOMER BEHAVIOR BASED UPON :
EVENT ATTRIBUTES :

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 31, 2005.

The petition is **NOT APPROVED**.

The request cannot be approved because a proper reason for withdrawal in compliance with 10.40(b) must be provided.

Additionally, the Change of Address submitted on January 23, 2006, was entered in error since the attorney signing the request had already been withdrawn as per the request for withdrawal filed on October 14, 2003. Therefore, all future communications from the Office will be directed to the below-listed assignee address until otherwise notified by applicant.

This matter is being referred to Technology Center AU 3623 to await a reply to the Final Rejection mailed February 15, 2006.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Denise Pothier
Petitions Examiner
Office of Petitions

cc:

FLIESLER MEYER
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

(current address of record below)

METAEDGE CORPORATION
5201 GREAT AMERICA PARKWAY
SUITE 238
SANTA CLARA CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE, RI 02903-7128

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APR 13 2004

OFFICE OF PETITIONS

In re Application of
Alan Constantine et al
Application No. 09/963,118
Filed: Septenber 24, 2001
Attorney Docket No. 02567

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

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed July 23, 2003, to accept an unintentionally delayed priority claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed international application (Application No. PCT/GB00/01012) as set forth in the amendment filed July 30, 2002.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 365(c) 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 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—;" or for an international application: "This is a continuation (division or continuation-in-part) of International Application PCT/GB00/01012), with an international filing date of March 24, 2000, now abandoned." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---, or "Benefit is hereby claimed" does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed July 30, 2002 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore not acceptable.

The amendment filed on July 30, 2002 is additionally not acceptable as drafted since it improperly incorporates by reference the prior-filed international application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 365(c) can be granted, a renewed petition and a substitute amendment to correct the above matters is required.

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

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

By hand: Customer Window located at:

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 12

SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE, RI 02903-7128

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JUN 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Alan Constantine et al :
Application No. 09/963,118 : DECISION ON PETITION
Filed: September 24, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02567 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/GB00/01012, filed March 24, 2000, as set forth in the amendment submitted concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on September 24, 2001, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted, prior-filed PCT application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT 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 application, 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 the examiner of Technology Center Art Unit 1734 for appropriate action on the amendments filed July 23, 2003 and May 7, 2004, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/GB00/01012, filed March 24, 2000.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 13

SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE, RI 02903-7128

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JUL 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Alan Constantine et al	:	SUBSTITUTE
Application No. 09/963,118	:	DECISION ON PETITION
Filed: September 24, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02567	:	AND 37 CFR 1.55(c)

This is a SUBSTITUTE decision on the petition to accept an unintentionally delayed claim for priority originally filed on July 23, 2003 and renewed on May 7, 2004. A decision granting the petition as one filed under 37 CFR 1.78(a)(3) was mailed on June 28, 2004. However, while the decision granting the petition under 37 CFR 1.78(a)(3) was proper in view of the new claim for priority to PCT Application No. PCT/GB00/01012 set forth in the amendment of July 23, 2003 (and resubmitted on May 7, 2004), the Office failed to appreciate the claim for priority benefits pursuant to the provisions of 35 U.S.C. § 119(a)-(d) for foreign Ukranian Patent Application No. 9906871.0. The petition of July 23, 2003 was more appropriately a petition under both 37 CFR 1.78(a)(3) and 37 CFR 1.55(c). The Office will now treat the petition on the merits of the petition under 37 CFR 1.55(c) to accept a late claim for priority benefits to the above-noted Ukranian patent application.[1]

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date in an oath or declaration or in an Application Data Sheet (*note 37 CFR §§ 1.63(c)(2) and 1.76(b)(6)*);

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner

[1] The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition fails to comply with item (2) above in that the foreign application information does not appear in an oath or declaration pursuant to the provisions of 37 CFR 1.63(c)(2) or in an Application Data Sheet in accordance with 37 CFR 1.76(b)(6). Accordingly, the petition under 37 CFR 1.55(c) must be dismissed.

Petitioner may seek reconsideration of this decision by filing a "Renewed Petition under 37 CFR 1.55(c)," along with either an executed oath or declaration or an Application Data Sheet. No additional petition fee is due.

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[2]
ATTN: Office of Petitions

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

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

[2] Effective approximately September 28, 2004, the facsimile number will be 571-273-0025, which is when the Office of Petitions expects to move to the new quarters in Alexandria, Virginia. However, this number is not to be used for submitting formal papers, but merely is to be used for receiving courtesy and informal papers and petitions to withdraw from issue only. Courtesy and informal papers will not be made a part of the file record.

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PROVIDENCE, RI 02903-7128

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MAY 06 2005

OFFICE OF PETITIONS

In re Application of
Alan Constantine et al
Application No. 09/963,118
Filed: September 24, 2001
Attorney Docket No. 02567

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition under 37 CFR 1.55(c), filed January 21, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign United Kingdom Patent Application No. 9906871.0, filed March 25, 1999.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date

four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

Intermediate PCT Application No. PCT/GB00/01012 was filed on March 24, 2000, which is within 12 months of March 25, 1999 (the filing date of the United Kingdom patent application to which benefit is now being claimed). On January 21, 2005, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required surcharge fee of $1,330 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

A Corrected Filing Receipt which reflects the above-noted foreign application accompanies this decision on petition.

This matter is being referred to Technology Center AU 1734 for such further action as the nature of the case requires, including consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to 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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 08 2004

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Wong, Cabello, Lutsch, Rutherford & Brucculeri, L.L.P.
20333 SH 249, Suite 600
Houston, TX 77070

Paper No. //

In re Application of	:	DECISION ON PETITION
John C. Dean	:	TO WITHDRAW
Serial No. : 09/963,132	:	HOLDING OF
Filed : September 25, 2001	:	ABANDONMENT
For : Soft Tissue Cleat	:	

This is a decision on petitioner's request filed June 7, 2004, to review the holding of abandonment mailed April 6, 2004, for failure to timely reply to the Office action mailed March 12, 2003. The basis for the request is that applicant did not receive the communication mailed March 12, 2003. There is no fee required for this petition.

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

The request filed June 7, 2004 includes all the above elements. Further, an inspection of the file reveals, as pointed out by petitioner, that the Office action in question was mailed to an incorrect address. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Office action of March 12, 2003, as well as to have the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed June 2, 2004 processed. The remailed Office action will set forth a new period for reply.

Summary: Holding of Abandonment Withdrawn.

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

ak/6/17/04

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DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY UT 84111

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of

TSUCHIDA, Ted et al.
Application No. 09/963,136
Filed: September 24, 2001
Attorney Docket No. **19017-CIP2**

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 May 12, 2010.

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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because no change of address was provided.

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 Tredelle Jackson at 571-272-.2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 6

Aaron Winiger
SQUIRE, SANDERS & DEMPSEY, L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043

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NOV 2 6 2003

Technology Center 2100

In re Application of:
Li-Wen Chen
Application No. 09/963,145
Filed: September 24, 2001
For: METHOD AND SYSTEM FOR MANAGING EVENT ATTRIBUTES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed October 14, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The 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 14, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: Charlie Kulas
CARPENTER AND KULAS, L.L.P.
1900 Embarcadero Road, Suite 109
Palo Alto, CA 94303

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Paper No. 9

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MAR 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

CHARLIE KULAS
CARPENTER AND KULAS, L. L. P.
1900 EMBARCADERO ROAD
SUITE 109
Palo Alto, Ca 94303

In re Application of
Li-Wen CHEN, et al
Application No. 09/963,145
Filed: September 24, 2001
For: METHOD AND SYSTEM FOR MANAGING EVENT ATTRIBUTES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed February 02, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

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

for Michelle R. Eason

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

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. 12

Charlie Kulas
CARPENTER AND KULAS, L.L.P.
1900 Embarcadero Road
Suite 109
Palo Alto, CA 94303

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AUG 0 3 2004

Technology Center 2100

In re Application of:
Li-Wen CHEN, et al.
Application No. 09/963,145
Filed: September 24, 2001
For: METHOD AND SYSTEM FOR MANAGING EVENT ATTRIBUTES

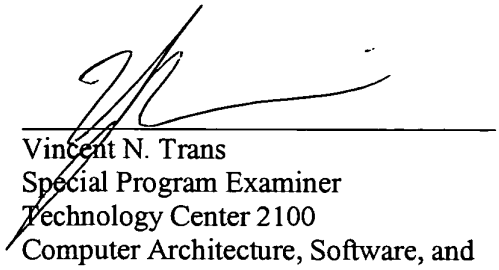
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 9, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

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



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

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FLIESLER MEYER LLP
FOUR EMBARCADERO CENTER, 4TH FLOOR
SAN FRANCISCO, CA 94111-4156

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Li-Wen Chen	:	
Application No. 09/963,145	:	DECISION GRANTING PETITION
Filed: September 24, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. HHP1-04000US1	:	

This is a decision on the petition filed April 25, 2005, which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of September 16, 2003, is accepted as having been unintentionally delayed.

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

This application is being forwarded to Technology Center AU 2171.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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NOV 15 2007

OFFICE OF PETITIONS

In re Application of :
Robert L. Wolfe :
Application No. 09/963,146 : DECISION GRANTING PETITION
Filed: September 25, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 03224.0012U1 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of October 4, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3622.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 13

Barnes & Thornburg
P.O. Box 2786
Chicago, IL 60690-2786

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Michael G. Robinson, et al :
Application No. 09/963,176 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. 39840-99432 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 17, 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 application became abandoned on December 18, 2003.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election to the restriction requirement; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

The application file is being forwarded to Technology Center 1700, Art Unit 1772.

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

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Paper No. 11

SENNIGER POWERS LEAVITT AND ROEDEL
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16TH FLOOR
ST. LOUIS, MO 63102

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OFFICE OF PETITIONS

In re Application of
Lulich et al.
Application No. 09/963,178
Filed: September 25, 2001
Attorney Docket No. 302405.02

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

This is a decision on the petition, filed October 15, 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 **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 30, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 19, 2004 was previously mailed on November 7, 2003.

This application is being forwarded to Technology Center Art Unit 2171 for examination in due course.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Howard W. Lutnick, et al. :
Application No. 09/963,197 : DECISION ON PETITION
Filed: September 25, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. CF/38 :

This is a decision on the petition, filed April 8, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is dismissed as **MOOT**.

An applicant who makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing,** the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. *See* Notice published on www.USPTO.gov on June 6, 2003, which clarifies the USPTO's interpretation of the provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv).

In the instant application, a notice to rescind was filed prior to the filing date of a corresponding application in a foreign country. Therefore, since the request to rescind received prior to the filing date of a corresponding application in a foreign application resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned for the reason stated above, the petition fee of $1300 is being credited to Deposit Account No. 06-1075 as authorized.

This application is being forwarded to Technology Center 3600, Art Unit 3622 for appropriate action on the reply to the non-final office action of August 29, 2002 received on November 7, 2002.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Frances Hicks at (703) 305-8680.

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

Frances Hicks
Petitions Examiner

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re Application of :

LUTNICK, Howard W. et al. :
Application No. 09/963,197 : DECISION ON PETITION
Filed: September 25, 2001 : TO WITHDRAW
Attorney Docket No. **CF/38** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **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 Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **HOWARD W. LUTNICK**
200 EAST 69TH STREET
NEW YORK, NY 10021

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	09/963,209	Confirmation Number	9835	Filing Date	2001-09-26
Attorney Docket Number (optional)		Art Unit	1651	Examiner	Deborah Ware
First Named Inventor	Suzanne Jaffe Stillman				
Title of Invention	Method of hydration; infusion packet system(s), support member(s), delivery system(s), and method(s); with business model(s) and Method(s)				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Suzanne	Jaffe	Stillman	

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 format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/R. Joseph Trojan/	Date (YYYY-MM-DD)	2008-05-06
Name	R. Joseph Trojan	Registration Number	34264

PTO/SB/130 (03-08)
Approved for use through 05/31/2008. 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 contains 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 the Fr eedom 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 indivi duals.

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 Application of
Suzanne Jaffe Stillman

Application No. 09963209

Filed: September 26,2001

Attorney Docket No. 26007.00241

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 06-MAY-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

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

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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AILEEN LAW
PATENT LAW OFFICES OF RICK MARTIN, P.C.
416 COFFMAN STREET
LONGMONT, CO 80501

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OCT 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Mark S. Bohn et al :
Application No. 09/963,253 : NOTICE
Filed: September 25, 2001 :
Attorney Docket No. RM375n

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 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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STEVEN FISCHMAN
SCULLY SCOTT MURPHY & PRESSER
400 GARDEB CITY
GARDEN CITY, NY 11530

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OFFICE OF PETITIONS

In re Application of :
Lawrence Jacobowitz et al :
Application No. 09/963,258 :
Filed: September 26, 2001 :
Attorney Docket No. FIS9200101129US1(14566)

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2633 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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Paper No.

Steven I. Weisburd, Esq.
Dickstein Shapiro Morin & Oshinsky LLP
1177 Avenue of the Americas
41st Floor
New York NY 10036-2714

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SEP 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Shinichi Morimoto	:	
Application No. 09/963,261	:	DECISION ON
Filed: September 26, 2001	:	PETITION
Atty Docket No. P/1929-85	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO PAY THE ISSUE FEE filed May 12, 2008.

The above-identified application became abandoned effective January 3, 2008 for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, October 2, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A courtesy Notice of Abandonment was mailed on February 29, 2008.

In response, applicants filed the instant petition to withdraw the holding of abandonment based on failure to receive the Notice of Allowance mailed October 2, 2007. The practitioner states that the Office action was never received at the correspondence address of record. The practitioner states that he has searched the file jacket and referenced the docket records and provides a copy of the docket records where the due date for this Notice would have been entered had it been received. In support thereof, applicants submit declarations of fact of attorney Ian Blum and docketing specialist Henrietta Marron.

A review of the application file reveals no irregularities in the mailing of the Notice mailed October 2, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view thereof, the Notice of Abandonment mailed February 29, 2008 and holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The petition included payment of the Issue Fee and Publication Fee[1]. The Office of Data Management has been advised of this

---

[1] There was no distinct but concurrent requirement for corrected drawings.

decision. The application file is, thereby, forwarded for the technical support staff to withdraw the holding of abandonment and for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No. 5

SIDLEY AUSTIN BROWN & WOOD
LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

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MAY 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Kobayashi et al. :
Application No. 09/963,308 : DECISION ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. :
15162/04110 :

This is a decision on the petition for a corrected filing date, filed January 17, 2002, requesting that the above-identified application be accorded a filing date of September 26, 2001, rather than the presently accorded filing date of September 25, 2001. The Petition will be treated as a petition under 37 CFR § 1.10. The delay in treating this Petition is regretted.

Petitioner alleges that the application was deposited in Express Mail service on September 26, 2001. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL794568344US. Although the "Date In" indicated on the Express Mail label is September 25, 2001, the Express Mail label contains a United States Postal Service (USPS) stamp of September 26, 2001. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to September 26, 2001.

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

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

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MYERS ANDRAS SHERMAN, LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

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NOV 1 3 2009

OFFICE OF PETITIONS

In re Application of :
Kenneth A. Klarfeld, et al. :
Application No. 09/963,335 : NOTICE
Filed: September 24, 2001 :
Attorney Docket No. MET2.PAU.23 :

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

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

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

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

Inquiries related to this communication should be directed to the April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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MAY 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Mark A. Conkling et al :
Application No. 09/963,340 : DECISION GRANTING PETITION
Filed: September 24, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5051-338CT :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 7, 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 April 15, 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 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and amendment.

/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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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Mail Date: 04/22/2010

Applicant	: Mark A. Conkling	: DECISION ON REQUEST FOR
Patent Number	: 7605308	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/963,340	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **278** 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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BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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OFFICE OF PETITIONS

In re Application of :
Tsutomu Tamaki :
Application No. 09/963,466 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. 030675-063 :

This is a decision on the petition under 37 CFR 1.181, filed July 28, 2005, to withdraw the holding of abandonment for the above-identified application. The petition requests that the abandonment, as set forth in the Notice of Abandonment of August 17, 2005, for failure to timely pay the required issue fee and publication fee, is applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85) be withdrawn. The request asks that the abandonment be withdrawn because the Issue fee had already been paid. This is also a decision on the petition under 37 CFR 1.313(c)(2), filed November 4, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) is **DISMISSED** since the application is abandoned for failure to timely pay the issue fee on or before May 18, 2005.

BACKGROUND

- November 10, 2004: A NOTICE OF ALLOWANCE AND FEE(S) DUE (PTOL-85) is mailed indicating that an Issue fee of $1,370 and Publication fee of $300 are due by February 10, 2005.[1]
- February 8, 2005: Applicant filed PART B- FEE(S) TRANSMITTAL (PTOL-85B) with the total required fees of $1,706, the fees filed have been credited to the instant application.
- February 18, 2005: A CORRECTED NOTICE OF ALLOWANCE AND FEE(S) DUE (PTOL-85) is mailed indicated that no ("$0") fees are due. The CORRECTED NOTICE OF ALLOWANCE AND FEE(S) DUE (PTOL-85) mailed further states the following on page 1 of 3:

[1] On December 8, 2004, the Issue fee increased to $1,400.

THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. **THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED**. (Emphasis added)

- August 17, 2005: A Notice of Abandonment is mailed with the box checked indicating that the application is abandoned for failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

A review of the evidence presented by the applicant and a review of the USPTO application file establishes that the request cannot be granted. The CORRECTED NOTICE OF ALLOWANCE AND FEE(S) DUE (PTOL-85) mailed February 18, 2005 clearly sets forth that the "THE PTOL-85B (OR AN EQUIVALENT) **MUST** BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED" (emphasis added). Since the applicant failed to return the PTOL-85B, even though no fee was due, the application was correctly regarded as abandoned for failure to respond to the CORRECTED NOTICE OF ALLOWANCE AND FEE(S) DUE (PTOL-85) mailed February 18, 2005.

Petitioner may wish to consider filing a petition under 37 CFR 1.137 to revive this application with a renewed petition under 37 CFR 1.313(c)(2).

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

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the

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DEC 23 2004

OFFICE OF PETITIONS

In re Application of :
Robert A. Koch, et al. :
Application No. 09/963,483 : DECISION GRANTING PETITION
Filed: September 27, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. BS01-080 :

This is a decision on the petition, filed October 18, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 23, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

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

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

This application is being referred to Technology Center Art Unit 2155 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No:__

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Toyomura, et al. : DECISION
Application No. 09/963,569 :
Filing Date: 27 September, 2001 :
Attorney Docket No.: 862.C2392 :

This is a decision on the petition filed on 2 April, 2004, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181, however, the papers were received in the Office of Petitioners only at this writing.

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

NOTE: **In matters such as this in which Petitioner observes that the Office may not have responded to Petitioner's filing(s), Petitioner may find it of particular value and import (to demonstrate or otherwise evidence at a later date Petitioner's diligence in attention to such matters) to calendar a Status Inquiry at four- (4-) month intervals**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply to the Restriction requirement mailed on 24 September, 2003, with reply due absent an extension of time on or before 24 October, 2003;

- the application went abandoned by operation of law after midnight 24 October, 2003;

- the Office mailed the Notice of Abandonment on 15 March, 2004;

- 2 April, 2004, Petitioner timely filed a petition and averred, *inter alia*, enclosure of copies of papers (Election) timely filed, with a date-stamped ("OCT 20 2003") receipt card (see: MPEP §503[1]) evidencing said filing;

- 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

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[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

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[2] 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]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

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.[9]

The commentary at MPEP §711.03(c) provides:

* * *

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

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

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

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

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

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

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt

> (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

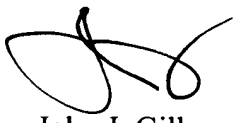
Thus, Petitioner appears to have satisfied the showing requirements described above.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**.

The instant matter is released to Technology Center 2800 for further processing in due course.

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



John J. Gillon, Jr.
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OFFICE OF PETITIONS

In re Application of :
Toyomura, et al. :
Application No. 09/963,569 : DECISION ON APPLICATION
Filed: September 27, 2001 : FOR
Atty Docket No.00862.022392 : PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST UNDER 37 C.F.R. § 1.705(b)," filed June 11, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from four hundred and five (405) days to one thousand, four hundred and twenty-one (1,421) days.

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **five hundred and four (504) days)**. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On April 30, 2009, 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 405 days. Applicants timely filed the instant application for patent term adjustment.[1]

Applicants dispute the reduction of 100 days for applicant delay in responding to the restriction/election requirement mailed September 24, 2003. Applicants explain that applicants originally submitted the reply on October 20, 2003. Applicants

[1] PALM finance records indicate the issue fee was paid on June 18, 2009.

indicate that a petition to withdraw the holding of abandonment was filed on April 2, 2004, accompanied by a copy of the previously filed reply and a copy of the Office date-stamped postcard whereby the Office acknowledged having received the reply on October 20, 2003. Applicants maintain that the Office construed the petition to withdraw the holding of abandonment as the reply to the restriction/election requirement and entered a period of reduction of 100 days. Applicants assert that the petition to withdraw the holding of abandonment was not reply to the restriction/election requirement and that applicants filed a reply to the restriction/election requirement on October 20, 2003, within three months of the mailing date of the restriction/election requirement. Applicants conclude that it is, therefore, improper to enter a period of reduction to the patent term adjustment of 100 days.

Applicants' argument is well taken and is supported by a review of the file record. This conclusion is not based upon applicants' argument that the Office calculated that period of reduction under 37 CFR 1.704(b) using the date the petition to withdraw the holding of abandonment was filed. Rather, it is because applicants filed a complete response within three months of the September 24, 2003, mail date of the restriction/election requirement, as evidenced by the Office date stamped postcard dated October 20, 2003. Thus, applicants did not fail to engage in reasonable efforts to conclude processing by delaying in responding to the restriction/election requirement. Accordingly, the period of reduction of 100 days is not warranted and is being removed.

It is noted that a restriction/election requirement in response to the reply received October 20, 2003, was not mailed until August 27, 2007. 37 CFR 1.703(a)(2) provides that:

> The period of adjustment under § 1.702(a) is the sum of the following periods:
>
> The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing if either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, which ever occurs first[.]

Accordingly, the period of Office delay pursuant to 37 CFR 1.703(a)(2) began February 21, 2004, and ended on August 27, 2007, with the mailing of the restriction/election requirement.

Thus, the period of adjustment of 1,120 will be removed and a period of adjustment of 1,284 days will be entered for Office delay pursuant to 37 CFR 1.703(a)(2).

It is further noted that applicants dispute the reduction to the patent term adjustment of 916 days. Specifically, applicants state that:

> It is also respectfully submitted that the USPTO incorrectly assessed an Applicant-delay period of 916 days for the period between the filing of the Information Disclosure Statement on October 5, 2006 and the filing of the Requested on April 2, 2004. Applicants cannot identify any failures to engage in reasonable efforts to conclude prosecution during this 916 period. The Notice of Abandonment was timely petitioned within the two months specified under 37 C.F.R 1.181(f). Although the Decision acknowledged that the Request was filed on April 2, 2004, the Decision indicated that the Request was not received in the Office of Petitioners until the time of writing the Decision...there was no delay associated with the filing of the Information Disclosure Statement on October 5, 2006. Accordingly, it is respectfully submitted that the assessment of the 916 day period of Applicant-delay is incorrect.

Excerpt taken from "Application for Patent Term Adjustment and Request Under 37 C.F.R. 1.705(b) to Reconsider Patent Term Adjustment", filed June 11, 2009, page 5.

Applicants' argument has been considered but is not persuasive. A review of the application history reveals that Information Disclosure Statements were filed on May 16, 2005, June 30, 2006, and October 5, 2006, after a reply to the restriction/election requirement was filed on October 20, 2003. The record does not support a conclusion that the examiner expressly requested the filing of any of these Information Disclosure Statements. Further, a review of the above noted Information Disclosure Statements, reveals that applicants did not include a statement under 37 CFR 1.704(d).[2] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application.

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[2] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs

Accordingly, pursuant, to 37 CFR 1.704(c)(8), it is appropriate to calculate the reduction to the patent term adjustment for these filings as 574 days for the IDS filed May 16, 2005, counting the number of days beginning on the day after the date the initial reply was filed, October 21, 2003, and ending on the date that the IDS was filed, May 16, 2005; 984 days for the IDS filed June 30, 2006, counting the number of days beginning on the day after the date the initial reply was filed, October 21, 2003, and ending on the date that the IDS was filed, June 30, 2006, and 1,081 days for the IDS filed October 5, 2006, counting the number of days beginning on the day after the date the initial reply was filed, October 21, 2003, and ending on the date that the IDS was filed, October 5, 2006. It is noted that the calendar days of the 574-day and 984-day periods of reduction overlap with the calendar days for the 1,081-days of reduction. It is appropriate, therefore, to only enter a period of reduction of 1081 days. Accordingly, the period of reduction of 916 days is being removed and the period reduction of 1,081 days is being entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is five hundred and four (504) days (1,585 (301 + 1,284) days of Office delay - 1,081 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) was received on June 11, 2009. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Monday
Date: 4/19/2010

PALM INTRANET

Time: 15:35:02

PTA Calculations for Application: 09/963569			
Application Filing Date:	09/27/2001	PTO Delay (PTO):	1421
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	1016
Post-Issue Petitions:	0	Total PTA (days):	504
PTO Delay Adjustment:	99		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
89	04/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	99		
77	05/12/2009	MAIL NOTICE OF ALLOWANCE			
76	04/28/2008	ISSUE REVISION COMPLETED			
75	04/28/2009	DOCUMENT VERIFICATION			
74	05/12/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
73	05/12/2009	NOTICE OF ALLOWABILITY			
72	05/12/2009	DATE FORWARDED TO EXAMINER			
71	04/13/2009	SUPPLEMENTAL RESPONSE			
65	04/28/2009	CASE DOCKETED TO EXAMINER IN GAU			
63	03/11/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	04/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	04/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	03/31/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
59	03/26/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
58	03/11/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
57	03/18/2009	DATE FORWARDED TO EXAMINER			
56	03/11/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
55	03/18/2009	DATE FORWARDED TO EXAMINER			
54	03/11/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			

53	03/18/2009	DISPOSAL FOR A RCE / CPA / R129			
52	03/11/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	03/11/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	12/11/2008	MAIL FINAL REJECTION (PTOL - 326)			
49	12/08/2008	FINAL REJECTION			
48	09/28/2008	DATE FORWARDED TO EXAMINER			
47	09/03/2008	RESPONSE AFTER NON-FINAL ACTION			
46	06/03/2008	MAIL NON-FINAL REJECTION			
45	05/30/2008	NON-FINAL REJECTION			
44	04/09/2008	DATE FORWARDED TO EXAMINER			
43	02/19/2008	RESPONSE AFTER EX PARTE QUAYLE ACTION			
42	01/28/2008	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
41	01/22/2008	EX PARTE QUAYLE ACTION			
36	11/15/2007	DATE FORWARDED TO EXAMINER			
35	11/01/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
34	11/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	08/27/2007	MAIL RESTRICTION REQUIREMENT	1120		30
32	08/20/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
31	07/19/2007	DATE FORWARDED TO EXAMINER			
30	04/02/2004	RESPONSE TO ELECTION / RESTRICTION FILED		100	15
29	07/20/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
28	06/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	06/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	07/06/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
25	10/05/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	10/05/2006	REFERENCE CAPTURE ON IDS			
23.7	10/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		916	30
23	10/05/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	07/13/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	06/19/2006	MAIL-PETITION TO REVIVE APPLICATION -			

		GRANTED			
20	04/02/2004	PETITION ENTERED			
19	05/16/2005	REFERENCE CAPTURE ON IDS			
18.7	05/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	05/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/15/2004	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
16	03/08/2004	ABAND. FOR FAILURE TO RESPOND TO O. A.			
15	09/24/2003	MAIL RESTRICTION REQUIREMENT	301		-1
14	09/22/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
13.7	01/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/29/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/30/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	01/08/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
10.7	01/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	01/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9.7	12/27/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	12/27/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	06/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	01/04/2002	APPLICATION DISPATCHED FROM OIPE			
6	01/04/2002	APPLICATION IS NOW COMPLETE			
5	10/26/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	10/24/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/02/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/27/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

OKI America, Inc.

Washington, D.C. Office

1101 14th Street, N.W., Suite 555, Washington, D.C. 20005
TEL 202/452-6190 or 6192 • FAX 202/452-6148

OIPE JC48
DEC 20 2001
PATENT & TRADEMARK OFFICE

Commissioner for Patents
Washington D.C. 20031

Attorney Docket: **F00ED0023**

Attention: Office of Initial Patent Examination

Re: Patent Application of:

Applicant(s)	: Mitsuru KOMIYAMA and Shinsuke SUZUKI
Application No.	: 09/963,590
Filed	: September 27, 2001

Sir:

In response to the Notice to File Missing Parts dated November 2, 2001, submitted herewith are:

[X] Surcharge $130.00. Please charge our Deposit Account **No. 50-0945**.

[X] Declaration in accordance with 37 CFR §1.63.

[X] Assignment Cover Sheet and Assignment.
NOTE: $40 Assignment Fee was authorized to be charged with filing fee on September 27, 2001. (Please see attached copies of the postcard receipt and Fee Transmittal dated September 27, 2001, which indicate the Assignment Fee previously authorized to be charged with filing fee.) However, the Assignment Fee has not yet been charged to our Deposit Account as of December 20, 2001.
Please charge $40 Assignment Fee in accordance with our previous authorization.

[X] Copy of U.S. Patent and Trademark Office notice dated November 2, 2001.

TOTAL FEE TO BE CHARGED **$130.00**

Should any additional fee be required, please charge our Deposit Account No. 50-0945 and advise us accordingly.

Respectfully submitted,

December 20, 2001
Date

Junichi Mimura
Registration No. 40,351

OKI

OKI America, Inc.

Washington, D.C. Office

1101 14th Street, N.W., Suite 555, Washington, D.C. 20005
TEL 202/452-6190 or 6192 • FAX 202/452-6148

OIPE JC48
DEC 2 0 2001
PATENT & TRADEMARK OFFICE

RECORDATION COVER SHEET

NAME OF CONVEYING PARTY	:	Mitsuru KOMIYAMA and Shinsuke SUZUKI
NAME OF RECEIVING PARTY	:	Oki Electric Industry Co., Ltd.
ADDRESS OF RECEIVING PARTY	:	7-12, Toranomon 1-chome, Minato-ku, Tokyo 105, Japan
NATURE OF CONVEYANCE	:	Assignment of U.S. Patent Application
CONVEYANCE EXECUTION DATE	:	December 12, 2001
PATENT APPLICATION NO.	:	**09/963,590**
APPLICATION FILED TOGETHER WITH THIS DOCUMENT	:	NO
APPLICATION EXECUTION DATE	:	December 12, 2001
CORRESPONDENCE ADDRESS	:	Oki America, Inc. 1101 14th Street, N.W., Suite 555 Washington, D.C. 20005
ATTORNEY REFERENCE	:	F00ED0023
TOTAL NUMBER OF PATENTS AND APPLICATIONS INVOLVED	:	One
TOTAL FEE PAID	:	$40.00 – **Previously authorized to be charged with filing fee on September 27, 2001**
METHOD OF PAYMENT	:	[ ] Enclosed [X] Authorized to be charged to deposit account 50-0945

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

Junichi Mimura
(Registration No. 40,351)
(Customer No. 26071)

December 20, 2001
Date

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

OIPE
DEC 2 0 2001
JC48
PATENT & TRADEMARK OFFICE

PTO/SB/17 (11-00)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT ($) 750

Complete if Known	
Application Number	To Be Assigned
Filing Date	September 27, 2001
First Named Inventor	Mitsuru KOMIYAMA
Examiner Name	To Be Assigned
Group Art Unit	To Be Assigned
Attorney Docket No.	F00ED0023

METHOD OF PAYMENT (check one)

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 50-0945

Deposit Account Name: OKI America, Inc.

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☐ Payment Enclosed: ☐ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	710
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) ($) 710

2. EXTRA CLAIM FEES

	Extra Claims		Fee from below		Fee Paid
Total Claims	18 - 20** =	0	x 18	=	0
Independent Claims	3 - 3** =	0	x 80	=	0
Multiple Dependent			0	=	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	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) ($) 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 *ex parte* reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,240	241	620	Petition to revive – unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	40
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 Continues 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) ($) 40

SUBMITTED BY					Complete *(if applicable)*
Name (Print/Type)	Junichi Mimura	*Registration No.* (Attorney/Agent)	40,351	*Telephone*	(202) 452-6190
Signature				*Date*	September 27, 2001

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

OIPE JC48
DEC 20 2001
PATENT & TRADEMARK OFFICE

RECEIPT NO.: OAI-0097 DATE: September 27, 2001
ATTY. DOCKET: F00ED0023

APPLICANT(S): Mitsuru KOMIYAMA and Shinsuke SUZUKI
SERIAL NO.: To Be Assigned
FILED: September 27, 2001
FOR: MULTI-CHIP PACKAGE TYPE SEMICONDUCTOR DEVICE

PAPERS FILED:

1) UTILITY PATENT APPLICATION TRANSMITTAL (IN DUPLICATE)
2) FEE TRANSMITTAL FOR FY 2001 (IN DUPLICATE)
3) SPECIFICATION, CLAIMS, ABSTRACT (22 PAGES)
4) 7 SHEETS OF DRAWINGS, Fig.1 – Fig. 6
5) CLAIM FOR PRIORITY AND ONE (1) PRIORITY DOCUMENT – JAPANESE PATENT APPLICATION NO. 2000-296328, FILED SEPTEMBER 28, 2000

FEE: $750.00 (Account NO.: 50-0945)

PLEASE DATE STAMP AND RETURN

OIPE JC152
SEP 27 2001
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Zilka-Kotab, PC
P.O. Box 721120
San Jose CA 95172-1120

COPY MAILED

APR 16 2007

OFFICE OF PETITIONS

In re Application of :
Teblyashkin et al. : DECISION ON PETITION
Application No. 09/963,659 :
Filed: September 27, 2001 :
Atty Docket No. 01.045.01 :

This is in response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT under 37 CFR 1.181(a) filed October 10, 2006.

The application became abandoned for failure to timely pay the issue fee and publication fee within the statutory period of three months from the mailing date of the Notice of Allowance mailed May 24, 2006. An authorization to charge the $300 publication fee and $1400 issue fee to a Deposit Account was received on June 28, 2006. However, when presented on June 28, 2006, the Deposit Account was found insufficient to pay the fees as the balance in Deposit Account No. 50-1351 was only $747.00. No further reply received and no extension of time obtainable, the application became abandoned effective August 25, 2006. A courtesy Notice of Abandonment was mailed on September 28, 2006.

Applicants replied with the instant petition. Applicants request withdrawal of the holding of abandonment on the basis that the fees were timely paid by authorization to charge the Deposit Account filed June 28, 2006. Applicants do not address the insufficiency of the Deposit Account balance.

It is undisputed that the Issue Fee transmittal was timely received on June 28, 2006. However, the record also reveals no error in processing. Rather, funds were insufficient to pay the authorized fee.

As provided in 37 CFR 1.25(a), charges to accounts with insufficient funds will not be accepted. As the Deposit Account was insufficient when the issue fee and publication fee were presented, they were properly not accepted. Accordingly, the application became abandoned for failure to timely pay the issue fee (and publication fee). Under the circumstances, withdrawal of the holding of abandonment is not warranted.

The petition under 1.181 is **DISMISSED**.

No fee is required and none has been charged for consideration of this petition.

Any request for reconsideration 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 not permitted. See 1.181(f).

Alternatively, applicants may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate. The filing of a petition to revive will be dismissed if it is found that its filing was intentionally delayed.

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

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

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

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

Telephone inquiries 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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Paper No.

Zilka-Kotab, PC
P.O. Box 721120
San Jose CA 95172-1120

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JUL 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Teblyashkin et al. : DECISION ON PETITION
Application No. 09/963,659 :
Filed: September 27, 2001 :
Atty Docket No. 01.045.01 :

This is a decision on the PETITION TO REVIVE PATENT APPLICATION FAILURE TO PAY ISSUE FEE UNINTENTIONAL (37 C.F.R. §§ 1.137(b) AND 1.316) filed May 15, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee and publication fee within the statutory period of three months from the mailing date of the Notice of Allowance mailed May 24, 2006[1]. A courtesy Notice of Abandonment was mailed on September 28, 2006.

By decision mailed April 16, 2007, a prior petition to withdraw the holding of abandonment filed October 10, 2006 was dismissed.

On instant petition, petitioner has submitted the required reply in the form of payment of the Issue Fee and Publication Fee, paid the petition fee and made the required statement of unintentional delay. No terminal disclaimer is required.

---

[1] An authorization to charge the $300 publication fee and $1400 issue fee to a Deposit Account was received on June 28, 2006. However, when presented on June 28, 2006, the Deposit Account was found insufficient to pay the fees as the balance in Deposit Account No. 50-1351 was only $747.00. No further reply received and no extension of time obtainable, the application became abandoned effective August 25, 2006.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Publishing Division for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

COPY MAILED

MAY 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Ohmori et al.	:	
Application No. 09/963,674	:	
Filed: September 27, 2001	:	
Attorney Docket Number:	:	
011020	:	ON PETITION

This is a decision on the petition filed March 21, 2005, requesting a previously filed terminal disclaimer be withdrawn.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed December 16, 2004, is improper as it incorrectly lists prior patent 4,668,283, rather than patent no. 6,638,367, as the patent over which the term of the above-identified application was being disclaimed. Applicant requests that this Office expunge the December 16, 2004, terminal disclaimer, and enter the terminal disclaimer filed with the instant petition on March 21, 2005.

As the examiner has concurred, the requested relief has been favorably considered.

This application is being referred to Technology Center AU 1773 for correction of PALM records consistent with this decision.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
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

FULBRIGHT & JAWORSKI L.L.P.
801 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004-2615

COPY MAILED

SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Chin, et al. :
Application No. 09/963,676 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. BSX-219 :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(a), filed August 23, 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 Office action mailed December 4, 2003. Accordingly, this application became abandoned on March 5, 2004. A Notice of Abandonment was mailed on July 12, 2004.

Petitioner contends the Office action was never received by applicant. 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 Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Petitioner has submitted the necessary statement and docket records that indicate non-receipt of the Office action. As such, the petition shall be treated as a petition under 37 CFR 1.181 and the holding of abandonment is withdrawn.

The $110.00 petition fee, submitted August 23, 2004, will be refunded to deposit account no. 06-2375

This application is being forwarded to Technology Center 3700 for review of the amendment, filed August 23, 2004, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Cushman, Darby & Cushman, L.L.P.
1100 New York Avenue, N.W.
Ninth Floor, East Tower
Washington, DC 20005-3918

COPY MAILED

APR 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Andrew Stocker, et al. :
Application No. 09/963,686 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. 056291-5057 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts of NonProvisional Application mailed October 15, 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 16, 2001.

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

Telephone inquiries concerning this decision should be directed to 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

cc: Donald J. Bird
Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
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
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Lisa Denney	: DECISION ON REQUEST FOR
Patent Number	: 7613167	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/963,689	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1245** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Lisa Denney
Patent Number : 7613167
Issue Date : 11/03/2009
Application No: 09/963,689
Filed : 09/27/2001

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1291** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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United States Patent and Trademark Office
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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

23 FEB 2006

In re Application of :
AKIYAMA, TOMOYUKI : DECISION GRANTING PETITION
Application No. 09/963,709 : TO RESET PERIOD FOR REPLY
Filed: September 27, 2001 :
For: **OPTICAL TIME-DIVISION MULTIPLEX SIGNAL PROCESSING APPARATUS AND METHOD, OPTICAL TIME-DIVISION MULTIPLEX SIGNAL RECEIVER** :

This is a decision on the petition filed on January 24, 2006 requesting that the shortened statutory period for reply set forth in the Office communication mailed on September 9, 2005 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **GRANTED**.

Petitioner provided a statement that the Office action was received on January 23, 2006 and further provided evidence in the way of a copy of the Office action transmittal page date stamped as being received on January 23, 2006. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. The petition meets the criteria for restarting a time period to respond to an Office action as set forth in MPEP § 710.06.

Accordingly, the shortened statutory period that was originally set forth in the Office action originally mailed on September 9, 2006 is hereby reset to run THREE MONTHS FROM THE RECEIPT DATE OF January 23, 2006.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARTHROCARE CORPORATION
7500 RIALTO BOULEVARD
BUILDING TWO, SUITE 100
AUSTIN, TX 78735-8532

COPY MAILED

JUN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Hovda et al.	:	
Application No. 09/963,736	:	DECISION ON PETITION
Filed: September 26, 2001	:	
Attorney Docket No. E-05-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS), (2) the petition fee, and (3) a proper statement of unintentional delay.

35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned for failure to pay the issue fee or any portion thereof. Accordingly, the issue and publications fee will be charged to petitioner's deposit account as authorized.

Petitioner is advised that the issue fee 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 concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3739 for further examination on the merits.

Liana Walsh
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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MAR 11 2010

OFFICE OF PETITIONS

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

In re Patent of Montgomery et al.	:	DECISION ON APPLICATION
Patent No. 7,461,024	:	FOR RECONSIDERATION OF
Issue Date: December 2, 2008	:	PATENT TERM ADJUSTMENT
Application No. 09/963,742	:	AND NOTICE OF INTENT TO
Filing Date: September 27, 2001	:	ISSUE CERTIFICATE OF
Attorney Docket No. 35646-175183	:	CORRECTION

This is in response to the "PTA Petition Under 37 C.F.R. §1.705(d)" filed January 30, 2009. Patentees request that the determination of patent term adjustment indicated on the patent be corrected from one thousand two hundred twenty-two (1,222) day to one thousand three hundred forty-two (1,342) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **granted**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand three hundred forty-two (1,342) 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.

The application matured into United States Patent No. 7,461,024 with a revised patent term adjustment of 1,222 days on December 2, 2008. This request for reconsideration was timely filed within two months of the issue date of the patent.

The only issue raised by the request is the propriety of the Office's entry of a 120-day reduction under 37 C.F.R. §1.704(c)(10) as a result of a paper filed August 4, 2008.

Background

The application was originally filed with the title, "Buyer-Side Auction Dynamic Pricing Agent, System, Method and Computer Program Product."

On February 1, 2007, patentees filed an amendment to replace the term "Buyer-Side" in the title with the term "Bidder-Side."

The non-final Office action mailed May 1, 2007, did not reference the change to the title or include any reason for patentees to conclude the Office had rejected the request.

A Supplemental Application Data Sheet ("Supplemental ADS") was filed October 12, 2007. The Supplemental ADS indicates the term "Buyer-Side" in the title should be replaced with the term "Bidder-Side."

The final Office action mailed October 18, 2007, did not reference the change to the title or include any reason for patentees to conclude the Office had rejected the request.

The Notice of Allowance mailed May 9, 2008, included the term "Buyer-Side" in the title instead of the term "Bidder-Side."

A "Request to Correct Title" was filed with payment of the issue fee on August 4, 2008. The Request stated,

> Please correct the title of the invention in the USPTO data base to reflect the change requested in the Response to Restriction Requirement filed in the USPTO on February 1, 2007. The chance is as follows:
>
> -- ~~BUYER-SIDE~~ BIDDER-SIDE AUCTION DYNAMIC PRICING AGENT, SYSTEM METHOD AND COMPUTING PROGRAM PRODUCT--.

The Office mailed a corrected filing receipt including the proper title on November 7, 2008.

The Office entered a reduction of 120 days in patent term adjustment as a result of the August 4, 2008 Request to Correct Title.

Opinion

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.

M.P.E.P. § 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. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process. Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. *See Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application:

(1) Fee(s) Transmittal (PTOL- 85B);
(2) Power of Attorney;
(3) Power to Inspect;
(4) Change of Address;
(5) Change of Status (small/not small entity status);
(6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and
(7) letters related to government interests (e.g., those between NASA and the Office).

Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include:

(1) a request for a refund;
(2) a status letter;
(3) amendments under 37 CFR 1.312;
(4) late priority claims;
(5) a certified copy of a priority document;
(6) drawings;
(7) letters related to biologic deposits; and
(8) oaths or declarations.

The Office has determined the August 4, 2008 Request to Correct Title should not have been treated as a "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).

The request to correct the title was filed after the Office mailed the Notice of Allowance. However, as stated by patentees, "The Notice of Allowance ... was the first reasonable indication that the Patent Office had failed to correct the invention title despite Applicant's two previous requests." Therefore, the Office concludes the 120-day reduction for the request to correct the title was not warranted.

Patentees have shown the patent term adjustment should not have been reduced 120 days from 1,342 days to 1,222 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 three hundred forty-two (**1,342**) 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 Form

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,461,024 B2
ISSUE DATE	:	December 2, 2008
INVENTOR(S)	:	Montgomery 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 1222 days.

Delete the phrase "by 1222 days" and insert - by 1342 days--

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#14

DR. MARK FRIEDMAN LTD.
C/O BILL POLKINGHORN
9003 FLORIN WAY
UPPER MARLBORRO, MD 20772

In re Application of :
Tzahi Arazi et al. :
Serial No.: 09/963761 :WITHDRAWAL OF ABANDONMENT
Filed: September 27, 2007 :
Attorney Docket No.: 1686/4 :

This is in response to applicant's petition under 37 CFR 1.181, filed December 30, 2003, requesting withdrawal of the holding of abandonment.

BACKGROUND

A view of the file records shows that the Office sent out a Letter on April 7, 2003, setting a shortened statutory period of 1 month for reply. On December 8, 2003, the Office mailed a Notice of Abandonment stating that no reply had been received. On December 30, 2003, applicants file a Petition to request Withdrawal of Holding of Abandonment.

DISCUSSION

The file records and Petition have been considered carefully. The Petition states that applicants filed a timely Response to the Letter mailed on April 7, 2003.

Applicants enclosed a true copy of the Response, and a copy of the USPTO Mail Room stamp verifying a date of receipt of April 30, 2003, to show that the response was timely.

DECISION

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

The application will be forwarded to the Examiner for consideration of the response filed April 30, 2003.

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 (703) 308-7553 or by facsimile transmission at (703) 308-7230.

Jasmine C. Chambers

Jasmine Chambers
Director, Technology Center 1600

fr

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

Paper No. 4

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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MAY 06 2002

OFFICE OF PETITIONS

In re Application of :
Marc Delvaux : DECISION GRANTING
Application No. 09/963,771 : PETITION
Filed: September 26, 2001 :
Attorney Docket No. 60705-1920 :

This is a decision on the petition under 37 CFR 1.10, filed February 19, 2000, requesting that the above-identified application be accorded a filing date of September 26, 2001, rather than the presently accorded filing date of September 27, 2001.

Petitioner alleges that the application was deposited in Express Mail service on September 26, 2001. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL891536552US. Although the "date-in" indicated on the Express Mail label is September 27, 2001, the label also contains a United States Postal Service (USPS) stamp of September 26, 2001. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to **September 26, 2001**, and mailing of a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Robert S. Kieval, et al. :
Application No. 09/963,777 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. 1151.1106101 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on November 4, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on February 5, 2005.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

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

The application file is being referred to Technology Center 3700.

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

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Buis :
Application No. 09/963,807 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. :
15962.0003US01/BLD9200100 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2008, to revive the above-identified application.

The petition is DISMISSED.

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

The application became abandoned November 18, 2007 for failure to timely submit an appeal brief in response to the Notice of Appeal filed September 17, 2007. Notice of Abandonment was mailed October 1, 2008.

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

The petition fails to satisfy requirement (1) set fort above. The proposed reply consists of a request for continued examination (RCE). However, the RCE lacks the required submission. See, 37 CFR 114(a).

Any request for reconsideration must include the required submission.

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

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

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

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

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

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Buis :
Application No. 09/963,807 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. :
15962.0003US01/BLD9200100 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2008, to revive the above-identified application.

The petition is DISMISSED.

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

The application became abandoned November 18, 2007 for failure to timely submit an appeal brief in response to the Notice of Appeal filed September 17, 2007. Notice of Abandonment was mailed October 1, 2008.

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

The petition fails to satisfy requirement (1) set fort above. The proposed reply consists of a request for continued examination (RCE). However, the RCE lacks the required submission. See, 37 CFR 114(a).

Any request for reconsideration must include the required submission.

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

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

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

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

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

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

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In re Application of :
Buis :
Application No. 09/963,807 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. :
15962.0003US01/BLD9200100 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2009, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned November 18, 2007 for failure to timely submit an appeal brief in response to the Notice of Appeal filed September 17, 2007. Notice of Abandonment was mailed October 1, 2008. A petition under 37 CFR 1.137(b) was filed December 1, 2009 and dismissed June 15, 2009.

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

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being directed to Group Art Unit 2625 for consideration of the request for continued examination, December 1, 2009, and the submission, filed August 17, 2009.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
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)
6682192	2004-01-27	09963826	2001-09-25	087635.000001

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	/Rob L. Phillips, #40,305/	Date (YYYY-MM-DD)	2008-04-01
Name	Rob L. Phillips	Registration Number	40305

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. 6682192
Issue Date: January 27,2004
Application No. 09963826
Filed: September 25,2001
Attorney Docket No. MICROVIS 01-78.PA

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

This is a decision on the electronic petition, filed April 1,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 1,2008 . 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

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

COPY MAILED

DEC 2 2 2009

OFFICE OF PETITIONS

Patent No. 7,272,121 :
Issued: 18 September, 2007 :
In re Application of :
Wilkes, et al. :
Application No. 09/963,844 :
Filed: 26 September, 2001 :
Attorney Docket No. 94893 :

DECISION
ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 16 September, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to a prior-filed application.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

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

Application No, 09/963,844issued as Patent No. 7,272,121on 18 September, 2007. The petition complies with the requirements of the regulations at 37 C.F.R. §1.78(a)(3) as to reference, surcharge and statement. The conditions for the granting of the petition have been met. Petitioner's deposit account has been charged the fee for a late claim for priority.

Patent No. 7,272,121
Application No. 09/963,844

A petition under 37 C.F.R. §1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. [1]

However, Office records reflect that a Certificate of Correction of the substance and in the form sought by Petitioner contemporaneously with the instant petition issued on 20 October, 2009. The fee for the Certificate of Correction was charged

Accordingly, the petition under 37 C.F.R. §1.78(a)(3) is **granted**.

This matter is released to IFW Files Repository.

Any inquiries concerning this decision may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

[1] *See* MPEP 1481.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

PHILLIP L. FREE JR.
CROWE & DUNLEVY
1800 MID-AMERICA TOWER
20 NORTH BROADWAY
OKLAHOMA CITY OK 73102-8273

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FEB 05 2003

OFFICE OF PETITIONS

In re Application of :
Gary F. Hirsch et al :
Application No. 09/963,854 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. GH2 :

This is a decision on the petition, filed by facsimile transmission on February 3, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 22, 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 1746 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

COPY MAILED

SEP 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Narinder Pal Singh et al :
Application No. 09/963,855 : NOTICE
Filed: September 26, 2001 :
Attorney Docket No. 9623/362 :

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 2175.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

John G. Rauch
Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

COPY MAILED

OCT 0 1 2002

OFFICE OF PETITIONS

In re Application of :
Singh et al. :
Application No. 09/963,855 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. 9623/362 :

This is a decision on the petition under 37 C.F.R. § 1.183, originally filed on September 26, 2001, to waive 37 CFR 1.52(e).

When a compact disc has been submitted as part of an application, one is required to list the files on the disc in the application and on the transmittal sheet. In the instant case, applicant seeks a waiver of the requirement and seeks to submit such a listing on compact disc rather than in the application and on the transmittal sheet.

The petition is **granted**.

Petitioner has demonstrated that a listing of the files would be over 1,000 pages long. Petitioner has submitted a "table" on the compact disc listing each file on the disc by file name, file size, and creation date.

Petitioner should note that petitioner, and not the Office, is responsible for identifying and correcting any difference between the file list on the compact disc and the files actually on the compact disc.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 20 2006

OFFICE OF PETITIONS

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

In re Application of :
Singh, et al. : LETTER REGARDING PTA
Application No. 09/963,855 :
Filed: September 26, 2001 :
Atty. Dkt. No.: 9623/362 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed October 31, 2005. The Office thanks appliants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed July 26, 2005 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 216 days. Applicants, however, indicate that the adjustment of 216 may extend the term of the patent by too many days and request a review of the calculation.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 182 days. 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 is 182 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

A review of the calculation of patent term adjustment reveals that the Office failed to reduce the adjustment of 375 days an additional 34 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental reply (Information Disclosure Statement, or, IDS) submitted April 25, 2005. The reduction began March 23, 2005, the day after the date that the initial reply was filed, and ended April 25, 2005, the date the IDS was submitted.

Accordingly, at the time of allowance, the adjustment of 375 days is properly reduced a total of 193 days for applicants' failure to engage in reasonable efforts to conclude prosecution.

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

This application is being forward to the Office of Patent Publication for issuance of the patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

TOLER, LARSON & ABEL, LLP
5000 PLAZA ON THE LAKE
SUITE 265
AUSTIN, TX 78746

COPY MAILED

MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Frank et al. :
Application No. 09/963,861 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. 1376.0100580 :

This decision concerns the February 6, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on August 7, 2003 for failure to timely submit a proper reply to the May 6, 2003 non-final Office Action.

The instant petition encloses an amendment as reply to the May 6, 2003 non-final Office Action; an authorization for the USPTO to charge the $1,330 petition fee to Deposit Account No. 50-2469; and a statement that the entire delay in filing a proper reply from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application file is being returned to Technology Center 2100 for further examination.

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

RC Tang
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Jan. 11, 2005

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction on Patent No.: 6,805,207

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, ***should the patent read as shown in the certificate of correction***? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see the references cited – should they be added?

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 PETITION FOR CORRECTION OF INVENTORSHIP 12/11/01 AND THE IDS 12/11/01 ARE NOT PRESENT IN THE FILE.

LOUIS K. HUYNH
PRIMARY EXAMINER

Louis K. Huynh for RADA RINALDI
SPE

3721
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Aug. 22, 2005

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction on Patent No.: 6,805,207

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

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

See IFW code Pet.Status, Cocin, and Imis regarding Inventorship and IDS! sp

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

YANO '741 IS PERTINENT. 1449 CONSIDERED AND INCLUDED.

SPE

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

MAIL

JAN 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063

In re Application of :
Shapiro et al. :
Application No. 09/963,906 :
Filed: September 25, 2001 :
For: **FINGERPRINT IMAGING DEVICE WITH FAKE FINGER DETECTION** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on May 12, 2003.

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

Attorneys/Agents with customer number 26181 requesting the withdraw are withdrawn. William J Egan, III the original attorney of record is not withdrawn.

Accordingly, the request is **GRANTED**.

All future communications from the Office will be directed to customer number 22434 at the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to the Central files after processing of the change of correspondence address.

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

cc:
IDENTIX INCORPORATED
5600 Rowland Road
Minnetonka, Minnesota 55343

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 15 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JONATHAN M. WALDMAN
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE 46TH FLOOR
PHILADELPHIA, PA 19103

In re Application of
HOLLAND, RODERICK

Application No. 09/963918
Filed: September 26, 2001
For: SYSTEM AND METHOD FOR IDENTIFYING CONTAMINATED TELEPHONE NUMBERS AND CORRECT LRN UNDER NUMBER POOLING

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 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.

A Revocation and Power of Attorney was filed appointing associates with the Customer Number 49584. Accordingly, the request is **DISMISSED**.

All attorneys/agents associated with Customer Number 38952 are withdrawn.

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

CC: LEE & HAYES, PLLC
421 W. RIVERSIDE AVENUE
Suite 500
SPOKANE, WA 99201

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)
6,509,059	2003-01-21	09963925	2001-09-25	100/04410

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	/Donald R. McKenna/	Date (YYYY-MM-DD)	2007-10-01
Name	Donald R. McKenna	Registration Number	44922

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. 6509059
Issue Date: January 21,2003
Application No. 09963925
Filed: September 25,2001
Attorney Docket No. 01-005601US

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

This is a decision on the electronic petition, filed October 1,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 1,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

OIPE JC59 JAN 28 2002 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/963,959	09/25/2001	Rachel A. Meyers	10448-095001

CONFIRMATION NO. 1570

FORMALITIES LETTER

OC000000007000672

Louis Myers
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

Date Mailed: 10/31/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(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

02/01/2002 BABRAHA1 00000023 09963959

01 FC:105 130.00 OP

OIPE JC59 JAN 28 2002 PATENT & TRADEMARK OFFICE

Attorney's Docket No.: [redacted]48-095001 / MPI2000-391P1R

Receipt # 4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Rachel E. Meyers
Serial No. : 09/963,959
Filed : September 25, 2001
Title : 33521, A NOVEL HUMAN GUANINE NUCLEOTIDE EXCHANGE FAMILY MEMBER AND USES THEREOF

Art Unit : 1743
Examiner :

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

In response to the Notice to File Missing Parts of Application under 37 CFR §1.53(b) mailed October 31, 2001 (copy enclosed), applicant as a large entity submits herewith the following:

☒ Check in payment of $130 surcharge for filing the declaration on a date later than the filing date of the application;

☒ Request for Corrected Official Filing Receipt (1 page); and

☒ Combined Declaration and Power of Attorney in compliance with 37 CFR §1.63.

It is understood that this perfects the application and no additional papers or filing fees are required.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

December 28, 2001
Date of Deposit

Darlene J. Morin
Signature

Darlene J. Morin
Typed or Printed Name of Person Signing Certificate

Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 10448-095001.

Respectfully submitted,

Date: December 28, 2001

Jack Brennan
Reg. No. 47,443

Fish & Richardson P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906
20364778.doc

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

COPY MAILED

JUN 2 3 2004

OFFICE OF PETITIONS

In re Application of :
A. John Speranza, et al. :
Application No. 09/963,978 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. PES-0041 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 20, 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 1746 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : June 23, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : A. John Speranza, et al.
Application No. : 09/963,978
Filed : September 26, 2001

The above-identified application has been assigned Patent No. 6,759,161 and an issue date of July 6, 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 July 6, 2004:

> "All reference to Patent No. 6,759,161 to A. JOHN SPERANZA, ET AL. of CONNECTICUT for INTEGRAL MEMBRANE SUPPORT AND FRAME STRUCTURE appearing in the Official Gazette of July 6, 2004, should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite ll00 (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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILLIAM YOUNGER GUESS
1144 PARLANGE
BATON ROUGE LA 70806

COPY MAILED

MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of
William Younger Guess
Application No. 09/964,000
Filed: September 26, 2001
Title of Invention: **COAXIALLY COMBINED MEAT ROAST WITH STEAKS OR CHOPS CUT FROM SAME**

ON PETITION

This is a decision on the petition filed February 2, 2007 to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

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

The application was held abandoned on November 15, 2005, for failure to file a timely response to the Notice of Non-Compliant Appeal Brief mailed, October 13, 2005. The Notice set a one month or 30 day period for reply. A response filed October 21, 2006 was followed up by a second Notice of Non-Compliant Appeal Brief mailed March 29, 2006. That Notice reminded petitioner that the period for reply remained as set forth in the October 13, 2005 Notice. Accordingly, a Notice of Abandonment was mailed on May 19, 2006.

Petitioner asserts that the communication filed October 21, 2005 was an explanation and recitation of the rule, and that the Examiner of record incorrectly interpreted it as an argument. Nonetheless, petitioner filed an appeal brief on May 5, 2006.

Petitioners argue that the application was held abandoned due to procedural impropriety on the part of the Examiner.

To the contrary, this application is abandoned because petitioner did not follow the proper course of action which would have been to file a proper response to the Notice of Non-Compliant Appeal Brief with the proper extensions of time, not the Examiner's interpretation of the communication filed July 28, 2005.

The Appeal Brief filed May 5, 2006 was filed after the abandonment of the application. Applicants are not afforded an opportunity to withhold a proper response to an office communication even if they think the office communication is in error. In view thereof, the holding of abandonment will not 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

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

WILLIAM YOUNGER GUESS
1144 PARLANGE
BATON ROUGE LA 70806

COPY MAILED

DEC 0 6 2007

OFFICE OF PETITIONS

In re Application of: William Y. Guess :
Application No.: 09/964,000 :
Filed: September 26, 2001 : ON PETITION
For: COAXIALLY COMBINED MEAT ROAST :
WITH STEAKS OR CHOPS CUT FROM SAME :

Applicant's petition filed November 23, 2007 has been received. This petition is consider to be directed to the same issue as set forth in the petitions filed June 6, 2006 and February 2, 2007. All of the petitions are being treated collectively in this decision. Furthermore, the issue presented is being treated as a request withdrawal the holding of abandonment and not as a petition. As such, no fee is required for this request.

Upon further review of the decision mailed March 6, 2007, that decision is hereby **VACATED**.

The request to withdrawal the holding of abandonment is **GRANTED**.

BACKGROUND

The applicant of the present application is prosecuting the application on his own behalf as a Pro se applicant. The claims of the present application have been examined and finally rejected by the examiner in an office action mailed April 4, 2005. In response to the final rejection, applicant filed a notice of appeal June 9, 2005. The appeal was perfected on August 5, 2005 with applicant's filing of the appeal brief. On October 13, 2005, the examiner mailed a Notification of Non-Compliant Appeal Brief which set forth that the brief did not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal. Applicant replied in a letter filed October 21, 2005:

> In response to the Notification of Non-Compliant Appeal Brief, applicant disagrees and directs the examiners attention to 37 CFR § 41.37 (c)(1) which states clearly that appellants "not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:". Pursuant to this clear language, appellant is not required to include either a summary of the invention under

> items under these headings as a courtesy to the board such that a single document (the brief) would contain the relevant, albeit in the case of the summary, cursory information. Appellant's invention is very simple.

Applicant filed a petition on June 6, 2006 and a further petition on February 2, 2007. The petition of February 2nd was addressed in a decision mailed March 6, 2007. That decision dismissed applicant's petition on the grounds that applicant did not file a response to the Notice of Non-Compliant Appeal Brief mailed October 13, 2005.

ISSUE

The issue to be decided here is whether the decision mailed March 6, 2007 is proper.

DECISION

The relevant rule for this decision is 37 CFR 41.37 and in particular, 41.37(c)(1) which states:

> The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section: (Underlining added)

The relevant portion of the Manual of Patent Examining Procedure (MPEP) is MPEP section 1205.05 which states:

> An exception to the requirement that all the items specified in 37 CFR 41.37(c)(1) be included in the brief is made if the application or reexamination proceeding is being prosecuted by the appellant pro se, i.e., there is no attorney or agent of record, and the brief was neither prepared nor signed by a registered attorney or agent. The brief of a pro se appellant which does not contain all of the items, (i) to (x), specified in 37 CFR 41.37(c)(1) will be accepted as long as it substantially complies with the requirements of items (i) through (iv) and (vii) through (x). (Underlining Added)

Applicant is prosecuting this application as a Pro se applicant. Therefore, the applicant is only required to comply with 37 CFR 41.37(c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x). While other issues may exist, such as the rejection of the claims under 35 USC 112, 1st para., these issues should be addressed as substantive issues in applicant's arguments in the brief on appeal. The sufficiency of the arguments contained of the brief on appeal is an issue for the Board of Patent Appeals and Interferences and will not be addressed in this decision.

This application is being forwarded to TC 1700 for appropriate action consistent with this decision.

Anthony Knight
Supervisor
Office of Petitions
(571) 272-3687
AK

PTO/SB/21 (11-07)
Approved for use through 11/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	~~0994000~~ 09/964,000
Filing Date	09/26/2001
First Named Inventor	Guess, William Y
Art Unit	1761
Examiner Name	Becker, Drew
Attorney Docket Number	

Total Number of Pages in This Submission

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☑ Other Enclosure(s) (please identify below):

Remarks

Notice of Intent to Sue

Petition

Examiner Letter

Credit Card Form

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature	William Y Guess		
Printed name	William Y. Guess		
Date	11/20/2007	Reg. No.	

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	William Y Guess		
Typed or printed name	William Y. Guess	Date	11/20/2007

This collection of information is required by 37 CFR 1.5. 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 and1.14. This collection is estimated to 2 hours 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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	09/964,000	Confirmation
No. 3019			
Applicant	:	William Y. Guess	
Filed	:	09/26/2001	
TC/A.U.	:	1761	
Examiner	:	Becker, Drew	

Director of Patents Mail Stop &
Mail Stop Office of the Solicitor
P.O. Box 1450
Alexandria, Va 22313-1450

Sir,

This letter is a notice of intent to sue relative to the Administrative Procedure Act regarding the above application. The attempts to derail the above application by various members of the office are clearly not in keeping with the constitution, the statutes, or the CFR. The administrative wrong doings fall clearly beyond the threshold standard of "arbitrary and capricious" and completely ignore and are contrary to the relevant statutes and regulations.

A third petition to withdraw an improper notice of abandonment is attached to this letter. The undersigned believes that this petition contains all the relevant facts.

Any aid in this matter provided by the Office of Solicitor toward a favorable resolution for the applicant would be greatly appreciated in the event that the attached third petition fails to correct these improprieties and put the appeal on track.

Failing a reasoned, proper and fair explanation of why the instant application should continue to be held abandoned, a complaint will be filed in a federal district court no sooner than sixty days from the mailing of this letter and attached petition.

Attached to this document may be found the letter sent by the examiner in response to petitioner's recitation of 37 CFR 41.37 (c) (1) in which no summary is required.

Respectfully submitted,

William Y. Guess 11-20-07

William Y. Guess
Applicant pro se

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	09/964,000	Confirmation No. 3019
Applicant	:	William Y. Guess	
Filed	:	09/26/2001	
TC/A.U.	:	1761	
Examiner	:	Becker, Drew	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Va 22313-1450

Third and Final Petition to Withdraw the Improper Notice of Abandonment and to Advance the Appeal of the Above Application
And notice of intent to sue.

Sir,

Petitioner has a right, pursuant to Title 35 Section 134, to appeal a final, adverse decision of the examiner and did so by way of a notice of appeal filed 06/09/2005.

Petitioner timely filed an appeal brief on 08/05/2005 regarding the above application.

The notice of non-compliant appeal brief is fatally flawed.

The examiner sent an improper notice of Non-Compliant Appeal Brief on October 13 2005. The notice was improper in that the only box checked on this form was toward heading box IV relative to the requirement of 37CFR 41.37 (c) (1) in which a detailed summary of the invention is required. It was the summary that which the examiner stated was not property done. No summary is required by appellants not represented by a registered practitioner.

The required contents of the summary are described in 37CFR 41.37 (c) (1) (v). However this assertion by the examiner proposed a legal impossibility in that the Appeal Brief rule clearly and unconditionally requires nothing from applicants under headings (v) and (vi) when those applicants are not represented by a registered practitioner as is the case with petitioner. This language is clear, and again, unconditional. At the time, petitioner believed this to be a simple oversight by the examiner, in that presumably not many *pro se* appeals are filed. Within the required time period to respond (30 days), petitioner filed a response containing the following:

> "In response to the Notification of Non-Compliant Brief, applicant disagrees and directs the examiners [sic] attention to 37 CFR § 41.37 (c) (1) which states clearly that appellants 'not represented by a registered practitioner need only substantially comply with paragraphs (c) (1) (i)

through (iv) and (c) (1) (vii) through (c) (1) (x) of this section'. Pursuant to this clear language, appellant is not required to include either a summary of the invention under heading (v) or the grounds of rejection under heading (vi). Appellant included items under these headings as a courtesy to the board such that a single document (the brief) would contain the relevant, albeit in the case of the summary, cursory information. Appellant's invention is very simple."

Again, the above response was done so in a timely manner as stated within the notice.

Again, petitioner believed the form letter sent by the examiner stating the impossible was a mistake, much like petitioner's credit card information[1], including account number plus expiration date, being published on the internet by the USPTO. No harm was done in the second mistake, in that the applicant had that account cancelled. Harm is being done relative to the current situation regarding the improper notice of defective brief all based on examiner error.

The examiner's letter in response to applicant's response contains nothing accurate and set a "tacky trap" for the appellant.

Over five months following the improper notice of defective brief, the examiner sent, not a form, but an unusual appearing letter, with no specific heading, in which the first sentence thereof states again that the appeal brief does not contain a proper description of the invention under heading V of the brief.

[1] See attached PTO 2038 form

Contained within the above letter may be found the following in which the examiner states:

> In the letter of 10/18/05 appellant argues that a pro se applicant need only "substantially comply" with this requirement. However, because there are 35 U.S.C. 112(1) new matter rejections of all the appealed claims, this requirement will not be waved [sic]. (emphasis added)

Other than indicating a timely response by the appellant, these two sentences contain nothing accurate. The rule regarding the brief does not require the appellant to supply anything under headings V and VI. Title 35 Section 112 first paragraph makes no mention of "new matter". There are no outstanding "new matter" rejections toward any of the claims contained within the final rejection of the instant application, much less all of them. The words "pro se" appear nowhere in the alluded-to rule. It is further interesting to note that the most important word in the above passage is misspelled, namely: "waved". Also petitioner has never seen the first paragraph of Section 112 indicated as "35 U.S.C. 112(1).

Appellants are only required to "substantially comply" with headings (i) through (iv) and (vii) though (x). Petitioner has filed other appeal briefs that contain nothing under the headings (v) and (vi) other than a reference to the rule. (See ser. number. 10/109478, this application is much more complicated than the simple two and three element claims of the instant application.)

The examiner goes on to state:

> It is in appellant's best interests (*sic*) to provide evidence of support for all the rejected claim limitations so that the Board of Patent Appeals and Interferences can make an informed decision on this issue.

Petitioner felt surely that the lack of tolling of the time to respond to this bizarre letter was yet another error by the examiner. Quite the contrary, it would appear that the examiner took so long to respond to petitioner's recitation of the relevant rule in order to trap petitioner into his current predicament. This is very unfortunate and unfair. It is also arbitrary (see 10/109478 lack of anything under heading (v) and extremely capricious. And in complete frustration, and in response to this bizarre letter, petitioner filed a second albeit superfluous brief on 05/05/2006. And, much quicker than with any other response from this examiner, a notice of abandonment was filed on 05/19/2006. A trap had been set and sprung by the examiner.

Petitioner believed the response of October 13 2005 to be in order. Waiting until two weeks prior to the six month deadline to inform petitioner of the "rule change" and the lack of tolling, had the effect of increasing the cost of the potentially issued patent by enormous amount due to time extension fees. Beyond that it took this pro se applicant more than 2 weeks to rewrite the brief.

A first petition is filed around two weeks after the notice of abandonment, which, to date, has never been addressed by the USPTO.

After receiving the improper notice of abandonment, petitioner filed on 06/02/2006, a petition containing the relevant facts requesting, that the abandonment be withdraw and the appeal go forward. And, according to the image file wrapper This petition was assigned to the Technology Center SPRE. To date, this petition has not been answered by the SPRE or anyone else after apparently falling into some sort of administrative "black hole".

A Second petition is dismissed due to a glaring though critical error by the office of petitions.

After waiting more than six months for a response to the first petition, a second petition was filed on 02/02/2007. **This petition was dismissed due to a critical, though glaring, error by the office of petitions.** In the dismissal the Senior Petitions Attorney states:

> The application was held abandoned on November 15, 2005, for failure to file a timely response to the Notice of Non-Compliant Appeal Brief mailed, October 13, 2005. The Notice set a one month or 30 day period for reply. A response filed October 21, 2006 was followed up by a second Notice of Non-Compliant Appeal Brief mailed March 29, 2006. [emphasis added]

It should be apparent that the Senior Petitions Attorney signed this document without reading it very carefully. The date of response by the appellant was, and is, critical toward these issues. The date of response was Oct 21, 2005 *not* Oct,

21, 2006 as incorrectly stated in the petition dismissal. Petitioner's response should have advanced the appeal but did not. No action after petitioner's response of Oct. 21, 2006 has been legally proper by the USPTO.

This situation is actionable under the Administrative Procedure Act. Given the sheer number and severity of errors committed by the Office, petitioner will give the PTO one last opportunity to, allow each and every claim or write and submit an answer, docket the case and proceed with the appeal; otherwise an APA complaint will be filed no sooner than sixty days following the filing of this, the third (and final) petition to withdraw the improper notice of abandonment.

These errors include:

The improper notice of non-compliant appeal brief by the examiner relative to applicants first appeal brief.

The examiner countering appellant's timely response and recitation of the relevant rule with misstatements and a position clearly at odds with the CFR.

The "re-writing" of a federal regulation by the examiner who possesses no authority to do so.

The continued ignoring of applicant's first petition by the Technology Center's SPRE.

The critical, glaring error by the Senior Petitions Attorney in the dismissal of applicant's second petition.

Conclusion:

It seems a sad irony that a patent office rule intended to assist pro *se* applicants could be the focus of such relentless, constitutional, statutory and regulatory perversities regarding a pro se drafted, filed and prosecuted application.

A Notice of Intent to Sue will be sent, concurrent with this petition, to the USPTO Office of Solicitor, in petitioner's desperate hope of avoiding even more agonizing delay and financial misery relative to this case. Hopefully this notice may aid in rendering unnecessary, a legal action in the event this petition goes the way of the others. A copy of this petition will be attached to the notice.

Respectfully submitted,

William Y Guess 11-20-07

William Y Guess
Applicant pro se

OFFICIAL

PTO-2038 (02-2000)
Approved for use through 01/31/2003. OMB 0651-0043
United States Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

This Acct Cancelled

United States Patent & Trademark Office

Credit Card Payment Form

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Credit Card Information

Credit Card Type:	Visa (circled) MasterCard American Express Discover
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Credit Card Expiration Date:	08/03
Name as it Appears on Credit Card:	William Y Guess
Payment Amount: $(US Dollars):	$42.00
Signature: William Y Guess	Date: November 19, 2002

Refund Policy: The Office may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested, and will not notify the payor of such amounts (37 CFR 1.26). Refund of a fee paid by credit card will be via credit to the credit card account.
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Fax #:	

Request and Payment Information

Description of Request and Payment Information:

Patent Fee	Patent Maintenance Fee	Trademark Fee	Other Fee
Application No. 964000	Application No.	Serial No.	IDON Customer No.
Patent No.	Patent No.	Registration No.	
Attorney Docket No.		Identify or Describe Mark	

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GROUP 1700

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form, the United States Patent & Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
0306	

DATE MAILED:

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

Commissioner for Patents

The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters; and/or does not identify the structure, material, or acts described in the specification as corresponding to each claimed function for every means plus function and step plus function for each independent claim involved in the appeal and for each dependent claim argued separately by reference to the specification by page and line number, and to the drawing, if any, by reference characters, as required by 37 CFR 41.37(c)(1)(v). In the letter of 10/18/05 appellant argues that a pro se applicant need only "substantially comply" with this requirement. However, because there are 35 U.S.C. 112(1) new matter rejections of all the appealed claims, this requirement will not be waved. It is in appellant's best interests to provide evidence of support for all of the rejected claim limitations so that the Board of Patent Appeals and Interferences can make an informed decision on this issue.

Appellant is required to comply with provisions of 37 CFR 41.37(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of the Notification of Non-compliant Appeal Brief (37 CFR 41.37) mailed on 10/13/05. Extensions of time may be granted under 37 CFR 1.136.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Drew Becker
DREW BECKER
PRIMARY EXAMINER
3-22-06

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 05-03

Paper No. 10

MARSHALL O'TOOLE GERSTEIN
MURRAY & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO IL 60606-6402

COPY MAILED

MAY 05 2003

OFFICE OF PETITIONS

In re Application of :
Weichselbaum et al. : DECISION ON PETITION
Application No. 09/964,042 : UNDER 37 CFR 1.78(a)(3)
Filed: 26 September, 2001 :
Atty Docket No. SING APPLIANCE :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 17 March, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between

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

> the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on 26 September, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

This application is being forwarded to Technology Center Art Unit 1635 for examination in due course and for processing and consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional applications.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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)
6,698,435	2004-03-02	09/964,051	2001-09-26	

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	/Kenneth C. Miller/	Date (YYYY-MM-DD)	2009-02-07
Name	Kenneth C. Miller		

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
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In re Patent No. 6698435
Issue Date: March 2,2004
Application No. 09964051
Filed: September 26,2001
Attorney Docket No.

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

This is a decision on the electronic petition, filed February 7,2009 ,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 February 7,2009 . 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 04/21/2010

Applicant	: Anthony Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 6855053	: RECALCULATION of PATENT
Issue Date	: 02/15/2005	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/964,060	: OF WYETH
Filed	: 09/26/2001	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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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DRW Jun-06

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

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JUN 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Kovesdi et al.	:	
Application No. 09/964,065	:	ON PETITION
Filed: 26 September, 2001	:	
Atty Docket No. 213527	:	

This is a decision on the petition filed on 10 November, 2005 which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn. The petition fee has been received.

The petition is granted.

Petitioners assert that the Terminal Disclaimer filed on 13 March, 2003, is no longer necessary because it was filed in response to an obviousness-type double patenting rejection over U.S. Patent No. 5,994,106, the claims of which are no longer in force as a result of an adverse judgment in an interference proceeding.

As the examiner has concurred, the request can be favorably considered.

This application is being referred to Technology Center Art Unit 1633 for further processing consistent with this decision.

Telephone inquiries relative 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
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Paper No. 12

Jay L. Chaskin
Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

COPY MAILED

JUN 12 2007

OFFICE OF PETITIONS

In re Application of :
Hans Jedlitschka :
Application No. 09/964,071 :
Filed: September 25, 2001 :
Attorney Docket No. 14XZ00117/GEM-0295 :

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 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 application became abandoned on July 15, 2003.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1500.00; and (3) an adequate statement of unintentional delay.

Receipt is acknowledged of the Change of Correspondence Address filed with the instant petition on May 1, 2007. The office records will be corrected accordingly.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

The application file is being forwarded to Technology Center 2800, Art Unit 2832.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE: A. Sykes

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 2/12/07

DATE : 11/14/06

TO SPE OF : ART UNIT 3762

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/964,079 Patent No.: 6985774

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.

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

Comments:

This change corrects the erroneous spelling of one of the applicant's names.

Fran Osprey 2/12/07
3766

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3762
Art Unit

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office

on 10/11/06

TOWNSEND and TOWNSEND and CREW LLP

By _____
Tiffany Wu

PATENT
Attorney Docket No.: 021433-000110US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Robert Kieval et al.

Patent No.: 6,985,774

Issued: January 10, 2006

For: STIMULUS REGIMENS FOR CARDIOVASCULAR REFLEX CONTROL

Examiner: OROPEZA, FRANCES P

Technology Center/Art Unit: 3762

Confirmation No.: 2039

REQUEST FOR CERTIFICATE OF CORRECTION UNDER §1.323

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

Sir:

Pursuant to 37 CFR §1.323 Applicant submits a Certificate of Correction correcting minor error inadvertently left uncorrected by Applicant.

The desired correction is set forth on form PTO/SB/44, enclosed.

Please deduct the fee, pursuant to 37 CFR §1.20(a), of $100.00 from deposit account 20-1430 and any additional fees associated with this Certificate.

Respectfully submitted,

James M. Heslin
Reg. No. 29,541

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel. (415) 576-0200
Fax (415) 576-0300
JMH/tfw
rev. 1/04
60885747 v1

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,985,774

APPLICATION NO.: 09/964,079

ISSUE DATE : January 10, 2006

INVENTOR(S) : Robert S. Kieval 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:

Cover Page:

At Item (75), please delete "Bruce J. Perrson" and insert -- Bruce J. Persson --.

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

TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 27, 2008

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/964079 Patent No.: 6985774 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

CARL H. LAYNO
SUPERVISORY PATENT EXAMINER

Carl H. Layno
SPE

3766
Art Unit

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APPROVED

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	09/964,037
Filing Date	09/26/2001
First Named Inventor	Jerry A. Whatley
Art Unit	3627
Examiner Name	James A. Kramer
Attorney Docket Number	BRKS-25,695

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

- [x] 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 inventors/owners of the application are unresponsive to our diligent attempts to contact them regarding this application. They do not answer certified mail, and their phone numbers are non-working or unlisted. In addition, client owes over $12,000.00 in legal fees and has made no attempt to pay in the last 3 years. At the time of submission of this Request, applicant has 3 months until the expiration date of a time period for response or possible extension period.

CORRESPONDENCE ADDRESS

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

[ ] Customer Number:

OR

[x] Firm or Individual Name	Paul David Whatley				
Address	P. O. Box 2605				
Address					
City	Glen Rose	State	TX	Zip	76043
Country	USA				
Telephone	Unknown			Fax	Unknown

Name	John J. Arnott		
Signature	John J. Arnott	Registration No.	39,095
Date	January 5, 2005	Telephone No.	972-479-0462

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

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you 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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OVERLAND PARK KS 66251-2100

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Kevin Packingham et al. :
Application No. 09/964,099 : DECISION ON PETITION
Filed: September 26, 2001 : UNDER 37 C.F.R. §1.181
Attorney Docket No. 1732 :
Title: METHOD AND SYSTEM FOR :
CONSOLIDATED MESSAGE :
NOTIFICATION IN A VOICE COMMAND :
PLATFORM :

This is a decision on the petition filed on August 9, 2004, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed October 24, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no responses were received. Accordingly, the above-identified application became abandoned on January 25, 2004.

With the present petition, Petitioner has alleged that the mailing was not received. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and 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[1].

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

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

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

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the communication of October 24, 2003, and will set a new period for response.

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.

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

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1 See MPEP 711.03(c).

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).

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: McDonnell Boehnen
Hulbert & Berghoff
300 South Wacker Drive
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 12-04

THOMPSON COBURN, LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Eugene David Rodgers	:	
Application No. 09/964,118	:	ON PETITION
Filed: 25 September, 2001	:	
Atty Docket No. 9080/23611	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 12 November, 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 a final agency decision.

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

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

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

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

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

This application became abandoned on 20 March, 2004, for failure to timely file a reply to the final Office action mailed on 19 December, 2003, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 9 August, 2004.

On 12 November, 2004, the present petition was filed, accompanied by a Request for Continued Examination (RCE) and a request for an interview as the submission required under 37 CFR 1.114.

The petition filed on 12 November, 2004, must be dismissed because the RCE is not accompanied by a submission as required by 37 CFR 1.114. In this regard, a submission as used in 37 CFR 1.114 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.[2] The definition for a "submission" in 37 CFR 1.114 is the same as the definition in 37 CFR 1.129(a).

The papers filed with the RCE and petition are styled as "Remarks" and only request an interview with the examiner. As petitioner has not provided an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability, a proper submission does not appear to have been provided.

Petitioner should submit, or identify, if previously filed, the submission required under 37 CFR 1.114 with any renewed petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[3] The three-month extension request filed on 12 November, 2004, was submitted more than six (6) months after the mailing date of the Office action mailed on 19 December 2003, and therefore is unnecessary. The extension of time fee will be credited to counsel's deposit account, No. 20-0823 as authorized on the transmittal sheet submitted with the present petition.

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

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[2] See 37 CFR 1.114(b).

[3] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

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MAR 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Eugene David Rodgers	:	
Application No. 09/964,118	:	ON PETITION
Filed: 25 September, 2001	:	
Atty Docket No. 9080/23611	:	

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 8 February, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 20 March, 2004, for failure to timely file a reply to the final Office action mailed on 19 December, 2003, which set a three (3) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on

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

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

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

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

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

9 August, 2004. The petition filed on 12 November, 2004, was dismissed on 8 December, 2004.

On 8 February, 2005, the present renewed petition was filed, accompanied by an amendment. The amendment will be treated as the submission required under 37 CFR 1.114 to accompany the Request for Continued Examination (RCE) filed on 12 November, 2004.

The application will be referred to Technology Center Art Unit 1774 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

WILLIAM W. HOLLOWAY
TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of	:	
Martin Li et al	:	
Application No. 09/964,158	:	ON PETITION
Filed: September 26, 2001	:	
Attorney Docket No. TI-33430	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed October 24, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 25, 2001.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
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DALLAS, TX 75265

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Martin Li et al :
Application No. 09/964,158 : DECISION ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. TI-33430 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 17, 2005. A Notice of Abandonment was mailed on December 14, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 16, 2005 is accepted as being unintentionally delayed.

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

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

This application is being referred to Technology Center AU 2667 for appropriate action by the Examiner in the normal course of business on the reply received December 29, 2005.

/Frances Hicks/

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Martin Li	: DECISION ON REQUEST FOR
Patent Number	: 7570646	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/964,158	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1434** 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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Paper No. 5

TEXAS INSTRUMENTS INCORPORATED
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MAY 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Anjanaiah et al. :
Application No. 09/964,159 : ON PETITION
Filed: 26 September, 2001 :
Attorney Docket No. TI-33534 :

This is a decision on the petition, filed on 18 March, 2002 (certificate of mailing date 8 March, 2002), under 37 CFR 1.137(a) which is first treated as a petition to withdraw the holding of abandonment for the above-identified application.

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

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The application was held abandoned on 25 December, 2001, for failure to file a timely response to the Notice to File Corrected Application Papers mailed on 24 October, 2001, requiring substitute drawings in compliance with 37 CFR 1.84. A two (2)-month period for reply was set. No extensions of time under 37 CFR 1.136(a) were obtained. The present petition precedes the mailing of Notice of Abandonment.

Petitioner asserts that a proper response, including the drawings, was mailed to the USPTO on 27 November, 2001, but was returned to counsel's office as undeliverable. In support of the petition, petitioner submits a copy of the reply said to have been mailed to but not received in the U.S. Patent and Trademark Office. The document contains a certificate of mailing dated 27 November, 2001, and signed by petitioner's counsel, William W.

Holloway. The petition also contains a statement from attorney Holloway stating that the reply was mailed to the USPTO on 27 November, 2001, but was subsequently returned to petitioners on 19 February, 2002. Petitioners have also submitted a copy of the envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, showing a stamp evidencing processing by the USPS on 27 November, 2001. Petitioners further state that the papers comprising the reply had been "yellowed".

It is noted that the USPS Internet site indicates that some replies mailed to the USPTO had been returned as undeliverable due to damage incurred during the USPS decontamination process. Such a reply will be considered timely if the reply was mailed with a certificate of mailing under 37 CFR 1.8 showing a date that is within the period of reply set forth in the last Office action or note. A copy of the previously mailed reply showing the original certificate of mailing with a date within the period of reply and a statement that the reply was previously mailed to the USPTO on the date indicated on the certificate of mailing, and that it was returned as undeliverable because it was damaged in the mail.

The petition complies with the requires set forth in 37 CFR 1.8(b).

Receipt of nine (9) sheets of drawings is acknowledged.

Accordingly, the holding of abandonment withdrawn. In view thereof, the petition under 37 CFR 1.137(a) is moot. The petition fee $110.00 is unnecessary and will be refunded to counsel's deposit account, No. 20-0668.

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

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

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Shakuntala Anjanaiah et al	:	
Application No. 09/964,159	:	DECISION ON PETITION
Filed: September 26, 2001	:	
Attorney Docket No. TI-33534	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 17, 2005. A Notice of Abandonment was mailed on December 14, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 16, 2005 is accepted as being unintentionally delayed.

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

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

This application is being referred to Technology Center AU 2667 for appropriate action by the Examiner in the normal course of business on the reply received January 10, 2006.

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
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Paper No. 7

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

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DEC 12 2003

OFFICE OF PETITIONS

In re Application of :
Shakuntala Anjanaiah :
Application No. 09/964,164 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. TI-33533 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed October 23, 2001, which set a statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on December 24, 2001.

The Notice to File Corrected Application Papers did not require the $130 surcharge as set forth in 37 CFR 1.16(e). Therefore, this fee will be credited to petitioner's deposit account.

This application 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

Ira S. Matsil, Esq.
Slater & Matsil LLP
17950 Preston Road
Suite 1000
Dallas, TX 75252

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Young-Jin Park :
Application No. 09/964,205 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. 2001P17889 US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit an oath/declaration in a timely manner in reply to the Notice To File Missing Parts of NonProvisional Application mailed October 23, 2001, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on December 24, 2001.

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 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 D. Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

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MAY 20 2004

OFFICE OF PETITIONS

In re Application of :
Gregory Blank : DECISION ON APPLICATION FOR
Application No. 09/964,216 : PATENT TERM ADJUSTMENT
Filed: September 26, 2001 :
Atty Docket No. P1065R1C2 :

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b)," filed November 18, 2003. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from twenty-nine (29) days to fifty-eight (58) 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 fifty-eight **(58)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 29, 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 29 days. On April 14, 2003, patentee timely submitted the instant request for reconsideration of the patent term adjustment[1].

This initial determination of patent term adjustment was based on an adjustment of 119 days pursuant to § 1.702(a)(1) and § 1.703(a)(1) reduced by two periods of 61 days and 29 days respectively pursuant to § 1.704(b). There is no dispute as to the adjustment of 119 days or the reduction of 61 days. Applicant contends that the reduction of 29 days is in error. Applicant states that the error in the Office's calculation appears to result from a duplicate PALM entry on September 23, 2003, for a terminal disclaimer that was filed and noted in PALM on August 25, 2003. Applicant states that the interval between August 25 and September 23 led to the additional "applicant delay" of 29 days.

Applicant's arguments are well-taken. Applicant states, and the record discloses, that only a single terminal disclaimer was filed in this application. Further, that terminal disclaimer (with statutory disclaimer fee) was filed on August 25, 2003, and

[1] The Issue Fee payment was received in the Office on December 10, 2003.

is noted as accepted on the Notice of Allowability mailed September 29, 2003. There is no record of a terminal disclaimer or any other paper filed in this application on September 23, 2003. Accordingly, the reduction of 29 days is found to be improper.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is 58 days.

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

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

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

Kery A. Fries
for

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

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

Maria Gaos
P. O. Box 364225
San Juan, PR 00936-4225

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OCT 17 2002

OFFICE OF PETITIONS

In re Application of :
Maria Gaos :
Application No. 09/964,224 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. 30332-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed October 23, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 24, 2001.

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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OCT 19 2004

TECHNOLOGY CENTER 3600

McCONNELL VALDES
P.O. BOX 364225
SAN JUAN, PR 00936-4225

In re application of
Maria Gaos
Application No. 09/964,224 : DECISION ON REQUEST
Filed: September 25, 2001 : FOR WITHDRAWAL OF
For: METHOD AND APPARATUS FOR : ATTORNEY
DELIVERING A VIRTUAL REALITY
ENVIRONMENT

This is a decision on the request filed on August 30, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

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

As to condition A) the request to withdraw as attorney is not accepted in the above-identified application because the attorney making the request; Edwin R. Cruz does not now have, and apparently never had, power of attorney in this application. The application was assigned to the Mission Corp. on September 25, 2000. Therefore, the Power of Attorney submitted on October 29, 2002 was not effective.

As to condition B) while a reason may be provided by referencing a **specific** portion of 37 CFR 10.40, simply reciting "No longer representing Client, is insufficient. A more specific reason or referencing a specific portion of 37 CFR 10.40(c), is required for approval

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 10/15/04

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United States Patent and Trademark Office
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FAY KAPLUN & MARCIN LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

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DEC 0 1 2006

OFFICE OF PETITIONS

In re Application of :
GAOS :
Application No. 09/964,224 : DECISION ON PETITION
Filed: September 25, 2001 : TO WITHDRAW
Attorney Docket No. 30332-3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2005.

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

A review of the file record indicates that the power of attorney to Oleg F. Kaplun of FAY KAPLUN & MARCIN LLP has been revoked by the assignee of the patent application on December 12, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by 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: **HALLISKY & PHILIPP**
1725 WESTLAKE AVENUE NORTH
SUITE 150
SEATTLE, WA 98109

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

The Law Office of Kirk D. Williams
1234 S. Ogden Street
Denver, CO 80210

In re Application of:
Timothy Grib et al
Application No.: 09/964,232
Filed: September 26, 2001
For:METHOD AND APPARATUS FOR PERFORMANCE MEASUREMENT OF DIFFERENT NETWORK ROUTES BETWEEN DEVICES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed March 4, 2002.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on April 9, 2002. The Power Of Attorney revoked all prior Powers Of Attorney and appointed FULBRIGHT & JAWORSKI L.L.P as the attorneys of record of the instant application. The Power Of Attorney of April 9, 2002 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by FULBRIGHT & JAWORSKI L.L.P.

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 Electronic Commerce
(703) 305-9750

cc: Jan K. Simpson
FULBRIGHT & JAWORSKI L.L.P
1301 McKinney , Suite 5100
Houston, TX 77010-3095

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LEVEL 3 COMMUNICATIONS, LLC
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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AUG 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Grib et al.	:	
Application No. 09/964,232	:	DECISION ON PETITION
Filed: September 26, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. HO-P02393US0	:	

This is a decision on the petition, filed August 11, 2009, 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 September 25, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 26, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center Art Unit 2443 for examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/964,232	09/26/2001	Timothy E. Grib	HO-P02393US0

CONFIRMATION NO. 1841

83579
LEVEL 3 COMMUNICATIONS, LLC
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

NONPUBLICATION RESCISSION LETTER

OC00000037459405

Date Mailed: 08/21/2009

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

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/26/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/atkelley/

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

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ASSISTANT GENERAL COUNSEL
BAXTER INTERNATIONAL INC.
LAW DEPARTMENT
ONE BAXTER PARKWAY, DF2-2E
DEERFIELD, IL 60015

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Brynjelsen, et al. :
Application No. 09/964,273 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. IFT-5776 :

This is a decision on the petition submitted on September 12, 2005, requesting that the above-identified application be accorded a filing date of September 26, 2001, instead of the present filing date of May 10, 2002.

As previously stated in the Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice) of November 7, 2001, the above-identified application had been accorded a filing date of September 26, 2001. The record supports applicant's assertion that the United States Patent and Trademark Office erroneously changed the application filing date to May 10, 2002, the date of applicant's response to the Notice. The Office sincerely apologizes for the error.

Accordingly, the petition is granted.

The petition fee has not been charged.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to September 26, 2001, and the mailing of a corrected filing receipt.

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mailed:
JUL 2 2003

RPG

Paper No. 9

In re application of
Edward J. Van Rengen et al.
Serial No. 09/964,280
Filed: September 26, 2001
For: APPARATUS, SYSTEM AND METHOD FOR TRANSFERRING A RUNNING WEB

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed April 14, 2003 for failure to respond to the office action dated August 28, 2002. Applicants assert that a proper, timely response was mailed on September 20, 2002.

DECISION

Since petitioner asserts that a timely response was mailed to the USPTO, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The submitted evidence is a copy of the response and certificate of mailing, which indicates that a response was timely filed on September 20, 2002.

Therefore, the Notice of Abandonment dated March 26, 2003 is hereby withdrawn. Hence, the case is returned to pending status. The application shall be returned to the LIE for entering of the response to the restriction requirement. After such is completed, the case will be returned to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

John E. Vick Jr.
DORITY & MANNING, Attorneys at Law, P.A.
P.O. Box 1449
Grennville, SC 29602

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

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Shade et al.	:	DECISION ON APPLICATION
Application No. 09/964,293	:	FOR
Filed: September 25, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 07844-469001	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(B)," filed July 10, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred ninety-four (194) days to one thousand one hundred thirty-five (1135) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **nine hundred sixty-six (966)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 11, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 194 days. On July 10, 2006, 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 1135 days.

[1] PALM records indicate that the Issue Fee payment was also received on July 10, 2006.

Applicants dispute the reduction of 772 days, associated with the filing of a response on March 8, 2004 to the Office Notice mailed October 26, 2001. Applicants assert that there was no applicant delay as the response filed March 8, 2004 was filed with a petition showing that the response should be considered filed December 20, 2001. Further, applicants dispute the reduction of 66 days associated with the filing of an Information Disclosure Statement (IDS) on December 27, 2005. Finally, applicants maintain that the Office delay pursuant to 1.702(a)(1) should be 1135 days, not 1032 days. Applicants assert that this Office delay should be calculated based on the mailing of a second first Office action on January 3, 2006, rather than the mailing of a first Office action on September 22, 2005. Applicants argue that the mailing of an Office action on September 22, 2005 should not be used as applicants were advised of an error in the first Office action and the examiner indicated that the case "will need to be examined from the start again" thereby resetting the clock for the first Office action.

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

With respect to the 772-day reduction, applicants are correct that the reduction is not warranted. Applicants established on petition filed March 8, 2004 that their response to the Notice mailed October 26, 2001 was filed in the Office on December 20, 2001. As this was within the three-month period provided for in 37 CFR 1.704(b), no reduction is warranted. The reduction of 772 days has been removed.

However, with respect to the 66-day reduction, applicants are incorrect. Applicants argue that the reduction is not warranted because the art was cited in an Office Action dated November 22, 2005, which is within the time limits provided to file art from a foreign counterpart application and not incur Patent Term Adjustment. Applicants' argument has been considered but not found persuasive. 37 CFR 1.704(d) provides that:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this

> section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

A review of the IDS filed December 27, 2005 reveals that it was not accompanied by the §1.704(d) statement. Nor do applicants make the statement on the instant application for patent term adjustment.

It is noted that the reduction for the IDS is based on the IDS being filed after a reply had been filed on October 22, 2005. See 1.704(c)(8). It is unclear from the record whether any reply was filed on October 22, 2005 (or any other date prior to December 27, 2005) to the first Office action mailed September 22, 2005. Thus, removal of the reduction of 66 days may be warranted if a proper §1.704(d) statement is made or if it is shown that the circumstances of the filing of the IDS did not constitute a failure to engage within the meaning of §1.704(c)(8) or any other provision of the rules.

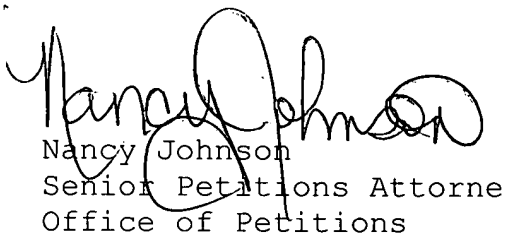
Finally, with respect to the period of adjustment of 1032 days, applicants are incorrect. A review of the application history confirms that the Office mailed a first action under 35 U.S.C. 132 on September 22, 2005. In this case, the mailing of an Office action on January 3, 2006 does not alter the date used in calculation of the period of adjustment. The Office met the requirement of 35 U.S.C. 154(b) with the mailing of this Office action. This action was issued as a result of the examination conducted pursuant to 35 U.S.C. 131. In this instance, the circumstances of the examiner determining that the application had to be examined again does not negate the conclusion that an Office action under 35 U.S.C. 132 was mailed on September 22, 2005 as a result of examination conducted pursuant to 35 U.S.C. 131. Thus, for purposes of calculating patent term adjustment pursuant to 37 CFR 1.703(a)(1), the date of mailing of a first action under 35 U.S.C. 132 is September 22, 2005. This is beyond 14 months of the filing date of the application, September 25, 2001. Thus, a period of adjustment pursuant to 1.702(a)(1) of 1032 days was properly entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is nine hundred sixty-six (966) days.

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

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Tuesday
Date: 12/5/2006

PALM INTRANET

Time: 13:05:21

PTA Calculations for Application: 09/964293			
Application Filing Date:	09/25/2001	PTO Delay (PTO):	1032
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	838
Post-Issue Petitions:	0	Total PTA (days):	966
PTO Delay Adjustment:	772		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	12/05/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	772		
49	04/11/2006	MAIL NOTICE OF ALLOWANCE			
48	04/10/2006	ISSUE REVISION COMPLETED			
47	04/10/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
46	04/10/2006	NOTICE OF ALLOWABILITY			
45	12/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	02/27/2006	DATE FORWARDED TO EXAMINER			
43	02/22/2006	RESPONSE AFTER NON-FINAL ACTION			
42	12/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		66	38
41	01/03/2006	MAIL NON-FINAL REJECTION			
40	12/23/2005	NON-FINAL REJECTION			
39	12/23/2005	DATE FORWARDED TO EXAMINER			
38	10/22/2005	RESPONSE AFTER NON-FINAL ACTION			
37	12/20/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
36	12/14/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
35	09/22/2005	MAIL NON-FINAL REJECTION	1032		-1
34	09/19/2005	NON-FINAL REJECTION			
33	09/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
32	08/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
31	08/05/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
30	08/05/2005	CASE DOCKETED TO EXAMINER IN GAU			

29	04/22/2005	REFERENCE CAPTURE ON IDS			
28	04/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	01/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	01/25/2005	REFERENCE CAPTURE ON IDS			
25	01/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	10/08/2004	REFERENCE CAPTURE ON IDS			
23	10/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	05/05/2005	APPLICATION DISPATCHED FROM OIPE			
20	05/06/2005	APPLICATION IS NOW COMPLETE			
19	09/25/2001	CLAIM PRELIMINARY AMENDMENT			
18	05/05/2005	ADDITIONAL APPLICATION FILING FEES			
17	04/25/2005	PRE-EXAM OFFICE ACTION WITHDRAWN			
16	04/25/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
15	03/08/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		772	4
14	10/26/2001	PRE-EXAM OFFICE ACTION WITHDRAWN			
10	09/25/2001	CLAIM PRELIMINARY AMENDMENT			
8	03/08/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	04/22/2005	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
5	12/27/2001	ABANDONMENT -- DURING PREEXAM PROCESSING			
4	10/26/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	10/25/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/03/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/25/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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HOWREY LLP
P.O. BOX 4433
HOUSTON, TX 77210-4433

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APR 19 2004

OFFICE OF PETITIONS

In re Application of :
Gregory J. Ward et al :
Application No. 09/964,296 : NOTICE
Filed: September 20, 2001 :
Attorney Docket No. 12598.0074.CPUS00/LUD :

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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HOWREY LLP
P. O. BOX 4433
HOUSTON, TX 77210-4433

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NOV 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Gregory J. Ward, et al. :
Application No. 09/964,296 : ON PETITION
Filed: September 20, 2001 :
Attorney Docket No. 12598.0074.CPUS00/LUD :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 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 February 24, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on May 25, 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 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.

The 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

William W. Holloway
Texas Instruments Incorporated
P.O. Box 655474, MS 3999
Dallas TX 75265

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NOV 0 7 2002

OFFICE OF PETITIONS

In re Application of
Anjanaiah, et al.
Application No. 09/964,315
Filed: September 26, 2001
Attorney Docket No. TI-31779

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed October 29, 2002, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Corrected Application Papers" (the "Notice") mailed October 23, 2001. The Notice set forth a two month period for reply beginning from its mailing date. Extensions of time for reply were available pursuant to 37 CFR § 1.136(a). No response was received within the allowable period, and the application became abandoned on December 24, 2001.

The substitute drawings filed October 23, 2001, are noted and made of record.

Deposit account 20-0668 will be assessed $1280.00 for the instant petition fee.

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

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

Kenya A. McLaughlin

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
ANJANAIAH et al. :
Application No. 09/964,315 :
Filed: September 26, 2001 :
Attorney Docket No. TI-31779 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 26, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 27, 2005.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being forwarded to Technology Center Art Unit 2189 for appropriate action by the Examiner in the normal course of business on the reply received.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

IPE W27
AUG 29 2006
TRADEMARK OFFICE

IFW

PET.OP mail 4/18/07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE THE APPLICATION OF: DOCKET NO: **TI-31779**

ANJANAIAH

APPL. NO: 09/964,315 EXAMINER: REBA I. ELMORE

FILED: 09/26/2001 ART UNIT: 2189

TITLE: APPARATUS AND METHOD FOR AN INTERFACE UNIT FOR DATA TRANSFER BETWEEN PROCESSING UNITS IN THE ASYNCHRONOUS TRANSFER MODE

PETITION TO REVIVE PATENT APPLICATION UNINTENTIONALLY ABANDONED UNDER 37 CFR 1.137(b)

MAILING CERTIFICATE UNDER 37 C.F.R. §1.8(a). I hereby certify that the above correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313 on August 23, 2006.

Lola Aguilar

Commissioner for Patents
Washington, DC 20231

Dear Sir:

Applicant, through his Attorney, hereby petitions the Commissioner of Patents to revive the above identified application in accordance with the provisions of 37 CFR 1.137(b).

The above identified application became unintentionally abandoned on or about March 24, 2006, as a result of an inadvertent failure to timely and properly reply to Office Action.

04/26/2007 AKELLEY 00000020 200668 09964315
01 FC:1453 1500.00 DA

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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SEP 26 2005

OFFICE OF PETITIONS

In re Patent No. 6,917,676 :
Application No. 09/964,333 :
Filed: September 28, 2001 : ON PETITION
Issued: July 12, 2005 :
Attorney Docket No. 648.40708X00 :

This is a decision on the petition filed June 9, 2005, which is being treated as a request under 37 CFR 3.81[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

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

Telephone inquiries should be directed to Paralegal Liana Chase at (571) 272-3282. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Corrections Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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SUITE 1300
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
O'Neil et al. :
Application No. 09/964373 : ON PETITION
Filing Date: 09/28/2001 :
Attorney Docket Number: :
VIP-101 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 14, 2006. 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).

Applicant filed an Amendment in response to the Office action on September 11, 2006; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed September 26, 2006. Accordingly, the date of abandonment of this application is June 15, 2006.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 2137 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.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 0605

ROBERT E. BUSHNELL
ATTORNEY AT LAW
Suite 300, 1522 "K" Street, N.W.
Washington, D.C. 20005-1202

JUN 16 2005

In re Application of:
JONG-SEO CHOI *et al.*
Serial No.: 09/964,375
Filed: September 28, 2002
Attorney Docket No.: **P56533**

DECISION ON PETITION
TO WITHDRAW A RESTRICTION
REQUIREMENT

This is a decision on the petition under 37 C.F.R. § 1.144 and § 1.181, filed February 11, 2005, to withdraw a restriction requirement.

The petition is DISMISSED as moot.

A review of the file record indicates that a non-final office action was mailed on May 30, 2003 rejecting all pending claims, which were all drawn to an apparatus. Applicant's response received September 2, 2003 included new claims that were drawn to a method of producing the apparatus.

The Examiner issued a second non-final office action, mailed on November 26, 2003, containing a restriction requirement. Since applicant received an action on the merits for the originally presented invention, which were constructively elected by original presentation for prosecution on the merits, the method claims were withdrawn from consideration by the Examiner as being directed to a non-elected invention. Applicant traversed the restriction requirement in the response received on February 26, 2004.

The Examiner issued a third non-final office action, mailed July 23, 2004, making the restriction requirement final. Applicant renewed the traversal of the restriction requirement in a response received October 15, 2004.

An *Ex parte Quayle* action was mailed on January 11, 2005 with a requirement for applicant to cancel the non-elected claims or take other appropriate action. Applicant filed a petition, received February 11, 2005, to withdraw the restriction requirement. On February 25, 2005, before a decision on the petition was made, applicant filed an amendment canceling all claims that were withdrawn from consideration by the Examiner in the restriction requirement to place

the application in condition for allowance. Since the withdrawn claims are no longer pending, the petition to withdraw the restriction requirement is moot.

Accordingly, the petition is dismissed as being moot.

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

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ROBERT E. BUSHNELL
SUITE 300
1522 K STREET, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Jong-Seo Choi, et al. :
Application No. 09/964,375 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No.: P56533 :
:

This is a decision on the petition, filed December 2, 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 October 3, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2879 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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IP GROUP
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FEB 25 2005

OFFICE OF PETITIONS

In re Application of :
Levine, et al. :
Application No. 09/964,384 : DECISION GRANTING PETITION
Filed: September 28, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 20009.0054US01 :

This is a decision on the petition, filed November 15, 2004, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioners state that the instant nonprovisional application is the subject of an application filed under a multilateral international agreement that requires publication of applications 18 months after filing. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing.

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. [1]

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 June 2, 2005 accompanies this decision on petition.

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

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

This application is being forwarded to Technology Center Art Unit 2643 for consideration of the amendment filed December 17, 2004 (certificate of mailing date December 13, 2004).

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: JERAMIE J. KEYS
P.O. BOX 71355
MARIETTA, GA 30007-1355

[1] It is assumed that Attorney Keys has conducted an investigation and has verified that the entire delay in timely notifying the Office of the filing of the application under a multilateral international agreement was unintentional.

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MARIETTA GA 30007-1355

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of :
Mark Kirkpatrick :
Application No. 09/964385 :
Filing or 371(c) Date: 09/28/2001 :
Attorney Docket Number: :
20009.0043US01 (BS01-170) : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment, filed May 31, 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 March 8, 2006. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on June 9, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence[1].

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2614 for re-mailing of the Office action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] A review of Office records reveals that the Office action was inadvertently mailed to an incorrect correspondence address.

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LAW DEPT - MI557
39 OLD RIDGEBURY ROAD
DANBURY CT 06810-5113

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OFFICE OF PETITIONS

In re Application of	:	
Notaro et al.	:	
Application No. 09/664,390	:	ON PETITION
Filed: 18 September, 2000	:	
Atty Docket No. 20846	:	

This is a decision on the petition filed 30 June, 2005, under 37 CFR 1.137(b).[1]

The petition is **dismissed**.

The application became abandoned on 10 July, 2003, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed on 9 April, 2003, which set a three (3) month statutory period for reply. Notice 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 utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

Abandonment was mailed on 19 August, 2003. The petition filed on 26 April, 2005, was dismissed on 3 June, 2005.

Receipt of the issue and publication fees is acknowledged.

The application will be referred to the Publishing Division for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of
Larry D. Woodring
Application No. 09/964,390
Filed: September 28, 2001
Attorney Docket No. BS01-379

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 8, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

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 notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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.

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 September 24, 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.

The General Power of Attorney by Assignee and Change of Correspondence Address filed June 21, 2004, does not comply with the requirements of 37 CFR 3.73(b). Therefore, it has been acknowledged, but not accepted. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent along with a Statement under 37 CFR 3.73(b) 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.

This application is being referred to Technology Center Art Unit 2642 for examination in due course.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Bambi Faivre Walters
P.O. Box 5743
Williamsburg, VA 23188

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WITHERS & KEYS FOR BELL SOUTH
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MARIETTA, GA 30007-1355

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AUG 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Amy L. Sherwood :
Application No. 09/964,395 : DECISION ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 20009.0224US01 :

This is a decision on the petition, filed November 29, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed March 9, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 3, 2006.

Petitioner asserts that the Office action dated March 9, 2006 was not received.

A review of the written record indicates that a revocation and power of attorney was filed on August 27, 2004, which was not acted upon by the Office. Despite this, it is noted that petitioner herein did in fact receive three other Office actions mailed in this application. Nevertheless, as a proper power of attorney was filed on August 27, 2004, it is concluded that the Office action of March 9, 2006 was not mailed to the attorneys appointed in the power of attorney. As the record shows an irregularity in the mailing of the Office action to the proper address noted in the power of attorney of August 27, 2004, the holding of abandonment is deemed to have been improper. 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 2626 for appropriate action in the normal course of business on the reply received November 29, 2006 to the Office action of March 9, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JAN 0 5 2004

OFFICE OF PETITIONS

In re Application of
Yasuo Yamaguchi
Application No. 09/964,462
Filed: September 28, 2001
Attorney Docket No. 214400US2

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 30, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 16, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2827 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

OIPE JC98 MAY 05 2004 TRADEMARK OFFICE

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214400US2

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

JAN 05 2004

OFFICE OF PETITIONS

In re Application of
Yasuo Yamaguchi
Application No. 09/964,462
Filed: September 28, 2001
Attorney Docket No. 214400US2

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 30, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 16, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2827 for further processing of the request for continued examination under 37 CFR 1.114.

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

RECEIVED: 1-6-04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: CH-6-04
Type of Resp(s): _____
Due Date(s): _____

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 24, 2006

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 6,888,243/09/964,462

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:

Drawings in patent are from a different application. The correct drawings were inadvertently switched by the USPTO.

Sue Purvis — SPE

2826 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JJGJr: 01-02

Paper No. 6

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

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MAR 0 6 2002

OFFICE OF PETITIONS

In re Application of
Xie, et al.
Application No. 09/964,494
Filed: 28 September, 2001
Attorney Docket No. 219.40430X00

: DECISION GRANTING PETITION

This is a decision on the petition filed on 21 December, 2001, styled "Petition Under 37 C.F.R. §1.53(e)," requesting that the Figure 8, as described in the specification, be accorded a filing date of 28 September, 2001.

The petition is **GRANTED**.[1]

The application was deposited on 28 September, 2001, and the record contains the transmittal sheet indicating that the papers to be submitted included "4. X Drawings (35 U.S.C 113) [Total; Sheets 7]," however, a review of the application indicated that Figure 8, as described in the specification, was absent from the application.

The Office mailed on 25 October, 2001, a "Notice of Missing Parts," (filing date granted):

- requiring the filing of the oath/declaration with late-filing surcharge; and
- noting therein that Figure 8, as described in the specification, appeared to be omitted from the application.

The Notice further indicated that the Applicant must respond within two months of the Notice mail date.

Petitioner filed a response on 21 December, 2001, with the instant petition, and provided therein copies of: the Notice of Missing Parts, as required; the Office-stamped filing receipt card

[1] Pursuant to Petitioner's authorization, the $130.00 petition fee is refunded and credited to Deposit Account 01-2135.

indicating thereon receipt of, *inter alia*: "7 Sheets of Formal Drawings"; copies of the drawings alleged to have been deposited on 28 September, 2001, and authorization to charge the petition fee.

Petitioner also draws attention in the petition to the facts that:

- Figure 8 is contained on the same sheet of drawings as Figure 9; and
- the caption "Fig. 8" is high on the page above the drawing.

A review of the application papers reveals that prior to the instant petition the record contained 7 sheets of drawings, none of which is a duplicate of another, and one of which contains both Figure 8 and Figure 9, and the caption "Fig. 8" is high on the page and apparently hidden by the post binding the drawings into the file.

Because:

- the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503,
- the page containing the drawing now identified as "Fig. 8," also contains the drawing previously identified as "Fig. 9," and
- the record contained 7 sheets of drawings, none of which is a duplicate of another, and one of which contains both Figure 8 and Figure 9, and the caption "Fig. 8" is high on the page and apparently hidden by the post binding the drawings into the file,

the Office concludes that the Figure 8 was filed on 28 September, 2001.

Accordingly, the petition is **granted**.

The statement that Figure 8 appeared to have been omitted from the Application, as contained in the Notice of Missing Parts mailed on 25 October, 2001, hereby is withdrawn.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 28 September, 2001, using the seven (7) sheets of drawings filed on 28 September, 2001, with an indication on the PALM bib data sheet that Figure 8 of the drawings was present on filing.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Attorney, Office of Petitions, at (703)305-9199.

John J. Gillon, Jr
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

OIPE MAP78 JUL 10 2006 PATENT & TRADEMARK OFFICE

09/964 494

COFC

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,045,890	Docket No:	884.A34US1
Issue Date:	May 16, 2006	Patentee:	Hong Xie et al.
Customer No.:	21186	Confirmation No.:	2764
Title	HEAT SPREADER AND STIFFENER HAVING A STIFFENER EXTENSION (As Amended)		

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. Two copies of the text of the Certificate in the suggested form are enclosed.

OK Approved WJF 9/25/06

Pursuant to 1.20(a), enclosed please find a check in the amount of $100.00.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No.19-0743.

Certificate JUL 12 2006 of Correction

NATHAN J. FLYNN SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2800

Respectfully Submitted

HONG XIE ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date: July 06, 2006

By: Ann M. McCrackin
Ann M. McCrackin
Reg. No: 42,858
AMM1:sj

07/11/2006 TBESHAH2 00000073 7045890
01 FC:1811 100.00 OP

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 7 day of July 2006

Sri P. Thao
Name

Sri P. Thao
Signature

JUL 12 2006

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,045,890

DATED : May 16, 2006

INVENTOR(S) : Xie 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 face page, in field (56), under "U.S. Patent Documents", in column 2, line 1, delete "361/758" and insert - - 361/758 / 257/712 - -, therefor.

On the face page, in field (56), under "U.S. Patent Documents", in column 2, line 4, delete "361/704" and insert - - 361/704 / 361/705 - -, therefor.

On the face page, in field (56), under "U.S. Patent Documents", in column 2, line 14, delete "438/108" and insert - - 438/108 / 438/121 - -, therefor.

On the face page, in field (56), under "U.S. Patent Documents", in column 2, line 20, delete "Dibene et al." and insert - - Dibene, II, et al. - -, therefor.

On the face page, in field (56), under "U.S. Patent Documents", in column 2, line 21, delete "Dibene et al." and insert - - Dibene, II, et al. - -, therefor.

On the face page, in field (56), under "U.S. Patent Documents", in column 2, line 22, delete "6,599,779 B1" and insert - - 6,599,779 B2 - -, therefor.

On the face page, in field (56), under "Other Publications", in column 2, line 2, after "(1992)" insert - - , - -.

In column 10, line 28, in Claim 1, delete "Inegrated" and insert - - Integrated - -, therefor.

In column 10, line 43, in Claim 4, delete "Inegrated" and insert - - Integrated - -, therefor.

In column 11, line 24, in Claim 16, delete "xircuit" and insert - - circuit - -, therefor.

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

PATENT NO. 7,045,890

No. of additional copies ____

Atty Docket No: 884.A34US1

OCT 17 2006

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,045,890

DATED : May 16, 2006

INVENTOR(S) : Xie et al.

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

In column 11, line 24, in Claim 16, delete "board;" and insert - - board (IC-PCB); - -, therefor.

In column 11, line 40, in Claim 18, delete "grid-array" and insert - - grid array - -, therefor.

In column 11, line 51, in Claim 20, after "component" delete "(DSC)".

In column 12, line 35, in Claim 33, delete "IC" and insert - - integrated circuit - -, therefor.

In column 12, line 46, in Claim 35, delete "IC" and insert - - integrated circuit - -, therefor.

In column 12, line 49, in Claim 36, delete "IC" and insert - - integrated circuit - -, therefor.

In column 13, line 25, in Claim 47, delete "claims 44," and insert - - claim 44, - -, therefor.

In column 13, line 49, in Claim 52, before "A carrier" delete "Withdrawn)".

In column 14, line 1, in Claim 55, delete "claims 1," and insert - - claim 1, - -, therefor.

In column 14, line 18, in Claim 60, delete "coplanar" and insert - - co-planar - -, therefor.

In column 14, line 61, in Claim 66, delete "mer" and insert - - stiffener portions form four corner - -, therefor.

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

PATENT NO. 7,045,890

No. of additional copies

Atty Docket No: 884.A34US1

JUN 12 2006

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OFFICE OF PETITIONS

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

In re Application of :
Robert L. Van Egmond et al. :
Application No. 09/964,502 : DECISION ON PETITION
Filed: September 28, 2001 : TO WITHDRAW
Attorney Docket No. 10559-470001 : 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, 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 Scott Boalick. Scott Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

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: **Fish & Richardson, PC**
P.O. Box 1022
Minneapolis, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FEB 04 2005

OFFICE OF PETITIONS

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

In re Application of :
Tomoo Kimura et al :
Application No. 09/964,515 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 60188-101 :

This is a decision on the petition, filed February 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2825 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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

Paper No. _____

Date : February 4, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 09/964,515

Applicant(s) :Tomoo Kimura et al
Application No. :09/964,515
Filed :September 28, 2001

The above-identified application has been assigned Patent No. 6,857,111 and an issue date of February 15, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 15, 2005:

"All reference to Patent No. 6,857,111 to Tomoo Kimura et al of Japan, for CIRCUIT OPERATION VERIFYING METHOD AND APPARATUS appearing in the Official Gazette of February 15, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (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

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)
6,501,053	2002-12-31	09/964,575	2001-09-28	BEC004-110CIP /IP-825-999

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/JOHN F. COLLIGAN/	Date (YYYY-MM-DD)	2007-09-18
Name	JOHN F. COLLIGAN	Registration Number	48240

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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United States Patent and Trademark Office
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In re Patent No. 6501053
Issue Date: December 31,2002
Application No. 09964575
Filed: September 28,2001
Attorney Docket No. BEC004-110CIP

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 18,2007,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 18,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

COPY MAILED

SEP 1 9 2005

OFFICE OF PETITIONS

In re Application of
Abdulahi Mohamed
Application No.: 09/964,590
Filed: September 28, 2001
Attorney Docket No: M510 0005

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed March 14, 2005.

The petition under 37 CFR 1.137(b) is **granted**.

On October 26, 2001, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an executed oath or declaration, $65.00 surcharge, and substitute drawings. A Notice of Abandonment was mailed on November 12, 2003.

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.

The executed declaration and substitute drawings filed March 14, 2005, are noted and made of record.

Deposit account 02-1037 will be charged $65.00 for the required surcharge.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Abdulahi Mohamed
4149 Cambridge Street
Burnaby, DC, Canada V5C 1G8

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)
6,692,160	2004-02-17	09/964,594	2001-09-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

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	/Mr. Yi Qin/	Date (YYYY-MM-DD)	2008-04-02
Name	Yi Qin		
Enter Reel and Frame Number		Remove	
Reel Number	013065	Frame Number	0741
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6692160
Issue Date: February 17,2004
Application No. 09964594
Filed: September 28,2001
Attorney Docket No. NEXFON-14

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 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 April 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 14

MILLEN, WHITE, ZELANO & BRANIGAN
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

COPY MAILED

MAR 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Andreas Wachtler et al :
Application No. 09/964,650 : DECISION ON PETITION
Filed: September 28, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MERCK-1497 (C3) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 11, 2003, and supplemented on March 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed March 16, 2004.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on September 28, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1756 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications and to reply to the papers filed August 7, 2003 and October 6, 2003.

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
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P.O. Box 1450
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Paper No. 18

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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JUN 1 7 2004

OFFICE OF PETITIONS

In re Application of :
Wachtler et al. :
Application No. 09/964,650 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. MERCK-1497 (C3) :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 14, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 6, 2003, and no extensions of time under the provisions of 37 CFR 1.136(b) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on December 7, 2003. See MPEP 1215.04.

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 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W., SUITE 600
WASHINGTON, DC 20005-3934

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APR 16 2002

OFFICE OF PETITIONS

In re Application of
De La Monte, et al.
Application No. 09/964,667
Filed: September 28, 2001
Attorney Docket No. 0609.4370005

DECISION ON PETITION

This is a decision on the "Petition for Acknowledgment of Deposit of Item with Originally-Filed Nonprovisional Patent Application Papers," which is being treated as a petition under 37 C.F.R. §1.53(e)(2), to, in effect, withdraw the "Notice to File Corrected Application Papers" as mailed November 7, 2001.

Application papers in the above-identified application were filed on September 28, 2001. However, on November 7, 2001, the Initial Patent Examination Division mailed applicants a "Notice to File Corrected Application Papers." Applicant was notified that the application papers had been accorded a filing date; however, figures 1a-1c described in the specification appeared to have been omitted. In addition, applicants were required to submit substitute drawings in compliance with 37 CFR 1.84.

In response, applicant filed the instant petition[1], contending that figures 1a-1c were in fact deposited in the U.S. Patent and Trademark Office with the nonprovisional application papers on September 28, 2001. In support thereof, petitioner notes that:

> FIG. 1, as filed ... is an informal drawing depicting a nucleotide and amino acid sequence listing contained on a single page. Applicants have prepared formal drawings that correspond to the originally-filed informal drawings. The formal drawings are being submitted concurrently with this petition. In preparing the formal drawings it was necessary to divide the sequence information depicted in the originally-filed FIG. 1 among three drawing sheets that have been labeled "FIG. 1A," "FIG. 1B," and "FIG. 1C." Applicants assert that the information contained in FIGS. 1A-1C is identical to that which was found in the originally-filed informal FIG. 1 drawing.

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[1] It is within the Commissioner's discretion to dismiss a petition under §1.181(f) filed more than TWO MONTHS after the action complained of as untimely. However, in this instance, petitioner provided a petition including a statement that the Office communication in question was received at the correspondence address of record on January 11, 2002. This petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set 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 instant petition under §1.53(e) will be considered on the merits.

Petitioner's remarks do not dispute that the original application papers did not include figures labeled 1a-1c. A review of the file confirms that the original application papers filed September 28, 2001, included a sheet containing a drawing labeled "Fig. 1," and a preliminary amendment[2] amending the specification to describe Figures 1A, 1B and 1C. Since the drawings filed on September 28, 2001, did not include figures labeled "Fig. 1A," "Fig. 1B," and "Fig. 1C," the "Notice" mailed November 7, 2001, was correct in advising applicants that drawings of these figures appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is DISMISSED.

The petition fee will not be refunded, since the petition was not necessary to correct any PTO error. Figs. 1A, 1B, and 1C were not received by the PTO on September 28, 2001.

Receipt of the substitute drawings and the "Petition to Restart Period for Reply" filed January 25, 2002 are acknowledged. The proposed drawing correction to Fig. 1 (to Fig. 1A, 1B and 1C) will be considered by the primary examiner in due course. See MPEP 608.02(h). As to the timely filing of the substitute drawings in reply to the "Notice to File Corrected Application Papers," the OIPE will consider the "Petition to Restart Period for Reply."

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 28, 2001, using the drawings filed on that date.

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

---

[2] A preliminary amendment not filed along with the original application does not enjoy the status of part of the original disclosure. See MPEP §608.04(b). However, the instant preliminary amendment was filed with the original application papers and thus, was properly considered by the Office in concluding that the figures described in the specification as amended appeared to have been omitted.

#18

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.

In re Application of de la Monte et al	:
	: DECISION GRANTING PETITION
Application No. 09/964667	: TO REMAIL AN OFFICE
Filed: January 25, 2002	: COMMUNICATION AND RESTART
Attorney Docket No. 0606.4370005/RWE/FRC	: PERIOD FOR REPLY

This is a decision on the petition filed on January 25, 2002, requesting that the Office communication mailed on November 7, 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 January 11, 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 but no reply is required as the required items in the Notice to File Corrected Application Papers were received by the Patent and Trademark Office.

Kevin Little 5/28/02

Kevin Little
Office of Initial Patent Examination
(703) 308-1863

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of
Claudio Desanti et al.
Application No. 09/964,702
Filed: September 27, 2001
Attorney Docket No: 112025-0461

ON PETITION

This is a decision on the petition filed June 29, 2006, to withdraw the holding of abandonment, which is being treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on December 7, 2005, for failure to file a timely response to the non-Final Office Action mailed September 6, 2005, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed June 20, 2006. Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed September 6, 2005 would have been filed, had it been received, to show that the Notice was not received.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed September 6, 2005, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2652 for appropriate handling of treatment of the amendment filed June 29, 2006 in response to the non-Final Office Action mailed September 6, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 04/30/2010

Applicant	: Claudio Desanti	: DECISION ON REQUEST FOR
Patent Number	: 7609689	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/964,702	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2311** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of
Woong Kwon Kim
Application No. 09/964,739
Filed: September 28, 2001
Attorney Docket No. 043694-5015-03

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on June 14, 2005, requesting that the Office replace the previously filed terminal disclaimer with the terminal disclaimer submitted with the present petition.

Petitioner asserted that the terminal disclaimer, filed on March 17, 2005, erroneously lists LG Electronics, Inc., as the assignee owner of both the present application and of U.S. Patent No. 6,327,011, instead of LG.Philips LCD Co., Ltd. Petitioner submitted a new terminal disclaimer with the petition, which correctly lists the name of the assignee owner.

As the examiner has concurred with petitioner's request, the relief can be favorably considered. Accordingly, the petition is granted.

This matter is being referred to Technology Center Art Unit 1772 for correction of PALM and file records consistent with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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TOM E. PEARSON
15973 SW BRECCIA DRIVE
BEAVERTON, OR 97007

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Tom E. Pearson et al	:	
Application No. 09/964,746	:	DECISION GRANTING PETITION
Filed: September 28, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and an RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 17, 2003, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person

signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3729.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
ATTORNEYS FOR INTEL CORPORATION
P.O. BOX 2938
MINNEAPOLIS, MINNESOTA 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

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OCT 1 0 2002

OFFICE OF PETITIONS

Applicant: Mondet et al.
Appl. No.: 09/964,751
Filing Date: September 28, 2001
Title: COSMETIC COMPOSITIONS COMPRISING AT LEAST ONE CONTINUOUS LIQUID FATTY PHASE STRUCTURED WITH POLYURETHANES, POLYURETHANEUREAS, AND POLYUREAS
Attorney Docket No.: 5725.0960-00
Pub. No.: US 2002/0076425 A1
Pub. Date: June 20, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on August 19, 2002 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/4/09 Paper No.: —

TO SPE OF : ART UNIT 2192

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/964769 Patent No.: 7065757B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒	**Approved**	All changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: All changes apply.

TUAN DAM
SUPERVISORY PATENT EXAMINER

SPE 2192 Art Unit

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BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD, MI 48034-2442

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Norris, et al. :
Application No. 09/964,776 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. IN-5384 :

This is a decision on the papers styled, "Petition To Withdraw Petition To Revive," filed March 9, 2004, which has been treated as a request to withdraw the "Petition To Revive Application Unintentionally Abandoned Under 37 CFR 1.137(b)."

The request is granted. The "Petition To Revive Application Unintentionally Abandoned Under 37 CFR 1.137(b)," filed December 12, 2003, is hereby withdrawn. The petition fee has not been charged and the application remains in abandonment.

This application will be returned to Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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FINNEGAN HENDERSON FARABOW GARRETT
& DUNNER LLP
1300 I STREET NW
WASHINGTON DC 2000

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JUN 2 5 2004

OFFICE OF PETITIONS

In re Application		
Hoff et al.	:	DECISION ON APPLICATION
Application No. 09/964,778	:	FOR
Filed: September 28, 2001	:	PATENT TERM ADJUSTMENT
Patent No. 6,744,502	:	
Issued: June 1, 2004	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed April 27, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred seventy-one (171) days to one hundred eighty (180) days.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

Applicants are given **THIRTY (30) DAYS** to respond to this decision. No extensions of time will be granted under § 1.136.

On January 20, 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 one hundred seventy-one (171) days. The instant request for correction of patent term adjustment was filed on April 27, 2004.

Pursuant to 37 C.F.R. § 1.704(b), applicants must file the request for reconsideration of the patent term adjustment no later than payment of the issue fee.

PALM records indicate that the issue fee payment was received in the Office on April 12, 2004. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended April 12, 2004. Accordingly, it is appropriate to dismiss this petition as untimely filed.

In view thereof, the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred seventy-one (171) days.

As the application issued into US Patent No. 6,744,502 on June 1, 2004, the file is being forwarded to Files Repository.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Kery Fries

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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JAN 18 2005

Technology Center 2100

Paper No. 7

CRYSTAL D. SAYLES
C/O BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CALIFORNIA 90025

In re Application of: Barmore
Application No.: 09/964,805
Filed: September 28, 2001
Attorney Docket No.: 42390.P12557
For: METHOD FOR CONTROL OF CODECS IN PC RISER CARD ARCHITECTURES

DECISION GRANTING PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181

This decision is in response to the petition under 37 CFR § 1.181 filed November 29, 2004 to withdraw the holding of abandonment. The Notice of Abandonment was mailed November 10, 2004.

The petition is **GRANTED**.

A grantable petition must include a copy of the response and proof of timely filing of the response. A properly used Certificate of mail transmission that includes a 37 CFR 1.8 (b) (3) Statement or a Stamped Post Card Receipt that properly identifies the contents of the submission is acceptable. No fee is required.

In support of the petition, the practitioner has provided a copy of an amendment with a certificate of mailing, and accompanying transmittal letter with a fee authorization for charging requisite fees for extensions of time, and a copy of a stamped postcard receipt with a stamped date of June 14, 2004. The USPTO postcard receipt that itemizes and properly identifies the items that are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped by the USPTO.

The evidence provided establishes that a timely response to the office action of March 30, 2004 was filed on June 10, 2004 with authorization to charge the requisite fee for extensions of time necessary for the response to be considered timely. The Office failed to match the complete response to the application file.

The petition is **GRANTED**. The application was not abandoned in fact. The Office regrets any inconvenience caused by this error.

The application will be forwarded to the Technical Support Staff with instructions for withdrawing the holding of abandonment and for processing of the response to the Office action that was filed June 10, 2004. No fee is required. Thereafter, the application will be forwarded to the examiner for

consideration of applicants' amendment. The attorney docket number has been updated as per the request for change of Attorney docket number, submitted with the amendment filed June 10, 2004.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595

HMJ: 1/7/05

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Paper No. 06102005

JUN 17 2005

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of	:	
OHYANAGI et al	:	DECISION ON PETITION
Application No. 09/964,809	:	
Filed: September 28, 2001	:	
Attorney Docket No. 500.40681X00	:	

This is a decision on the petition filed February 2, 2005, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

This application was held abandoned for failure to timely reply to the Election/Restriction Requirement Office action mailed November 24, 2003, setting forth a one-month period of response. A Notice of Abandonment was mailed on October 6, 2004.

Petitioner asserts that a response to the Election/Restriction Requirement Office action was timely filed in the US Patent and Trademark Office (USPTO) on December 24, 2003. This is evidenced by the post card receipt indicating receipt of a response to the Office action on December 24, 2003.

The response to the Election/Restriction Requirement Office action acknowledged as having been received in the USPTO on December 24, 2003 is not of record in the application file and cannot be located. However, M.P.E.P. §503 states, "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response to the Election/Restriction Requirement Office action was timely received in the PTO but lost after receipt thereof.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the response to the November 24, 2003 Office action. From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

James L. Dwyer, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

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OFFICE OF PETITIONS

In re Application of:	:	
Musoll et al.	:	
Application No. 09/964,827	:	DECISION ON
Filed: September 25, 2001	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.137(b)
METHOD AND APPARATUS FOR	:	
OVERFLOWING DATA PACKETS TO A	:	
SOFTWARE-CONTROLLED MEMORY WHEN	:	
THEY DO NOT FIT INTO A	:	
HARDWARE-CONTROLLED MEMORY	:	

This is a decision on the petition under 37 CFR § 1.137(b), filed July 28, 2005, to revive the above-identified application where Applicant failed to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR § 1.137(f).

This Petition is hereby **granted**.

The above-identified application became abandoned pursuant to 35 USC 122 (b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multinational international agreement, the requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty[1]; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due

[1] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request indicating a projected publication date will be mailed by the Office of Initial Patent Examination in due course.

This application is being referred to the Publishing Division for publishing of the application 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
Office of the Deputy Commissioner
for Patent Examination Policy

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Mark V. Seeley
Blakely, Sokoloff, Taylor & Zafman
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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MAR 02 2005

OFFICE OF PETITIONS

In re Application of :
Michael Goldstein :
Application No. 09/964,876 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. 42390.P12077 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 16 2007

OFFICE OF PETITIONS

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of	:	
John S. Hendricks	:	
Application No. 09/964,882	:	ON PETITION
Filed: September 28, 2001	:	
Attorney Docket No. 026880.00019	:	

This is a decision on the petition, filed March 16, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2137 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

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Paper No. 8

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of :
Klippel, et al. :
Application No.: 09/964,909 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No: **TRUC-0006/95-103-3** :

This is in response to the petition under 37 CFR 1.137(b) filed March 16, 2006.

The petition under 37 CFR 1.137(b) is **granted**.

On November 2, 2001, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an executed oath or declaration and $65.00 surcharge. A proper reply was not received within the allowable period, and the application became abandoned on January 3, 2002. A Notice of Abandonment was mailed on October 29, 2003.

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.

The executed declaration filed March16, 2006, is noted and made of record.

Deposit account 23-3050 will be charged $65.00 for the required surcharge.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Rockwell Automation, Inc./BF
Attention: Susan M. Donahue,
E-7F19
1201 South Second Street
Milwaukee, WI 53204

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Brian A. Batke et al. :
Application No. 09/964,916 : DECISION ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. 110003.97605 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 8, 2007, to.revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 1, 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 March 2, 2007. A Notice of Abandonment was mailed on November 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1500, 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 $1020 extension of time fee submitted with the petition on August 8, 2007 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 does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2142 for appropriate action by the Examiner in the normal course of business on the reply received August 8, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Keith Baxter
Boyle Fredrickson, SC
840 N. Plankinton Avenue
Milwaukee, WI 53203

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Paper No. 6

Arlen L. Olsen
Schmeiser Olsen & Watts
3 Lear Jet Lane
Suite 201
Latham, NY 12110

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OFFICE OF PETITIONS

In re Application of :
Casey J. Grant et al. :
Application No. 09/964,918 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. BUR920010039US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed October 29, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 30, 2001.

The application file is being forwarded to the Office of Initial Patent Examination Division for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,927	09/26/2001	Wil McCarthy		2183

33486 7590 04/19/2005

HEIMBECHER & ASSOCIATES, LLC.
390 UNION BLVD
SUITE 650
LAKEWOOD, CO 80228-6512

EXAMINER	
PETKOVSEK, DANIEL J	

ART UNIT	PAPER NUMBER
2874	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Heimbecher & Associates, LLC
390 Union Blvd
Suite 650
Lakewood, CO 80228-6512

APR 19 2005

In re Application of: McCarthy et al

Application No. 09/964,927
Filed: September 26, 2001

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313

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 above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed February 3 and February 2, 2005 respectively, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Rodney Bovernick at (571) 272-2344.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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BUCHANAN INGERSOLL & ROONEY PC
P.O. Box 1404
Alexandria VA 22313-1404

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OFFICE OF PETITIONS

In re Patent No. 6,820,692 :
Issue Date: November 23, 2004 :
Application No. 09/964,930 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. 005950-742 :

This is a decision on the petition filed August 21, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 3

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JAN 22 2002

OFFICE OF PETITIONS

Brinks, Hofer, Gilson, & Lone
P. O. Box 13095
Chicago, IL 60610

In re Application of:
Loh, *et al.*
Application No. 09/964,942
Filed: September 26, 2001
Attorney Docket No. 01 P 15417 US (10808/40)

DECISION GRANTING PETITION

This is a decision on the November 26, 2001 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of September 26, 2001, rather than the presently accorded filing date of September 27, 2001.

Petitioner alleges that the application was deposited in Express Mail service on September 27, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL746760568US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of September 26, 2001.

In view of the above, *this petition is **granted***.

This application will be returned to Initial Patent Examination Division for correction of the filing date to .

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

BEYER WEAVER & THOMAS
P.O. BOX 778
BERKELEY, CA 94704-0778

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of :
James Chi-Shun Tsiao et al :
Application No. 09/964,947 : NOTICE
Filed: September 26, 2001 :
Attorney Docket No. PROQP003 :

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).**

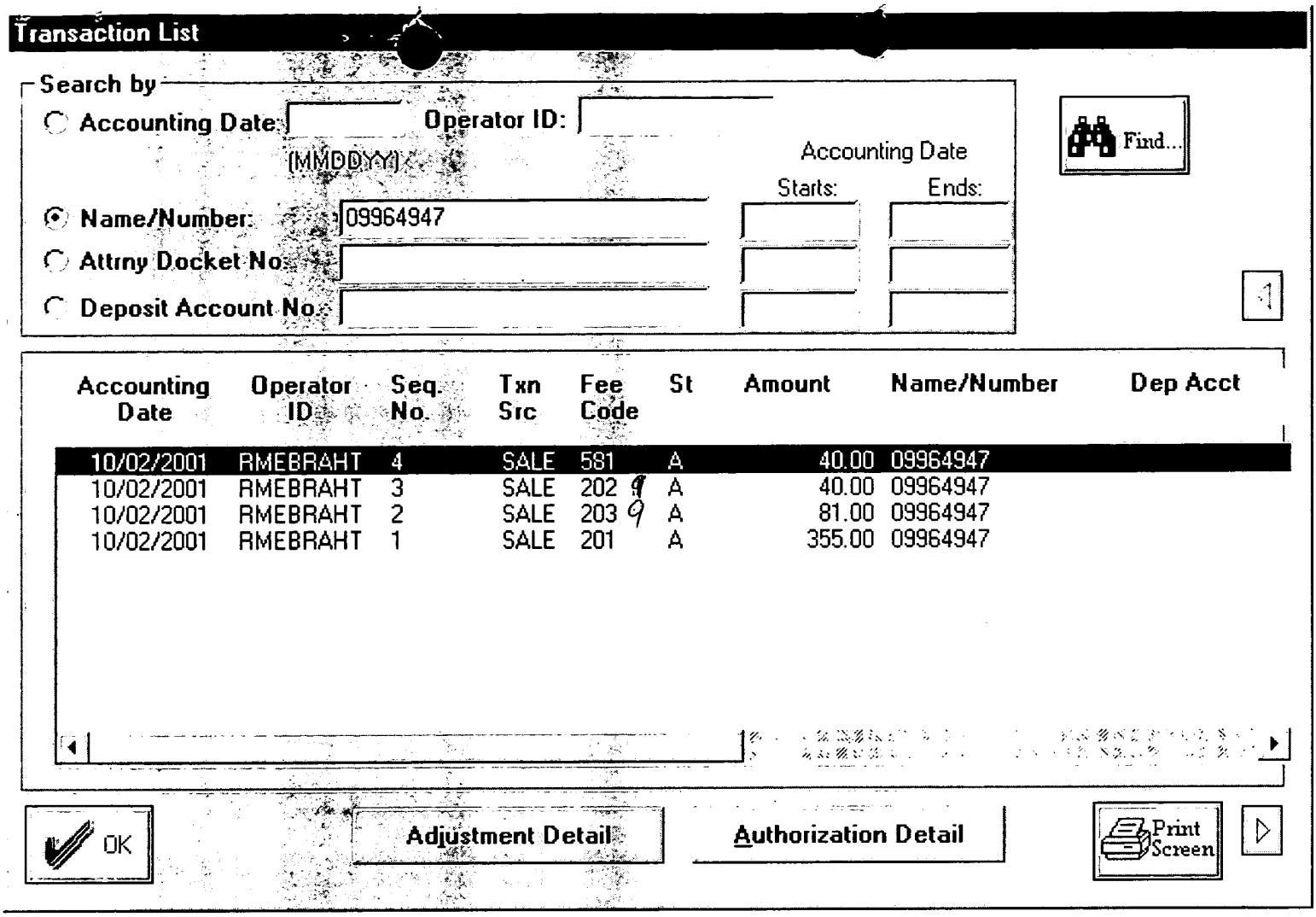
The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

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 2654.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Adjustment date: 09/27/2002 CNGUYEN
10/02/2001 RMEBRAHT 00000001 09964947
04 FC:581 -40.00 OP

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WASHINGTON, D.C. 20231
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Paper No. 5

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OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

In re Application of
Payne, Coelho & Hawash
Application No.: 09/964,951
Filed: September 27, 2001
Attorney Docket No.: 042390.P12155
For: METHOD AND APPARATUS FOR PROCESSING INPUTS INTO A COMPUTING DEVICE

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 22, 2002 (certificate of mailing date December 19, 2001).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on September 27, 2001 without an executed oath or declaration. Accordingly, on October 24, 2001, a "Notice to File Missing Parts of Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on January 22, 2002 (certificate of mailing date December 19, 2001), a declaration executed by 1 of 3 joint inventors, the surcharge, the petition fee, and the instant petition were filed. The petition states that non-signing joint inventors Rohan Coelho and Maher M. Hawash were each mailed at least one copy of the application as filed, including specification, claims and drawings and a declaration. Mr. Hawash refused via e-mail to join in the filing of the application. Mr. Coelho did not respond to the multiple requests that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2).

As to item (2), the declaration filed January 22, 2002 is not acceptable. There are handwritten changes to the post office address of the first named inventor, Michael J. Payne. The changes

were not dated. Pursuant to 37 CFR 1.52(c)(1), any interlineation, erasure, cancellation or other alteration of the application papers filed must be made before the signing of any accompanying oath or declaration pursuant to section 1.63 referring to those application papers and should be dated and initialed. A newly executed declaration is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions
E. Shirene Willis

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
ATTN: E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

In re Application of
Payne, Coelho & Hawash
Application No.: 09/964,951
Filed: September 27, 2001
Attorney Docket No.: 042390.P12155
For: METHOD AND APPARATUS FOR PROCESSING INPUTS INTO A COMPUTING DEVICE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed May 29, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors, Rohan Coelho and Maher M. Hawash, have refused to join in the filing of the above-identified application after having been presented with the application papers. Mr. Hawash expressly refused to sign the declaration after admitting he received the application papers, as is shown in the e-mail exhibit to Gregg A. Peacock's declaration. The declaration of Virginia Velazquez establishes that Mr. Coelho was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This file is being forwarded to Technology Center Art Unit 2644 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
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KRIEGER INTELLECTUAL PROPERTY, INC.
PO BOX 872438
VANCOUVER WA 98687-2438

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of :
Andrew M. Fertlitsch et al. :
Application No. 09/964,985 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. SLA1004 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 18, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned on October 23, 2009, for failure to timely file a reply to the Final Office action mailed July 22, 2009, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed February 18, 2010.

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of July 22, 2009, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on July 22, 2009, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of an Advisory Action is included.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/964,985	**Applicant(s)** FERTLITSCH ET AL.	
	Examiner BENJAMIN O. DULANEY	**Art Unit** 2625	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-24*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Benjamin O Dulaney/
Examiner, Art Unit 2625

Amendments will not be entered because they represent a difference in scope from the previous claims and would require further search and consideration.

UNITED STATES 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 : April 4, 2007

Patent No. : 6,667,047 B2
Inventor(s) : Brown, et al.
Issued : December 23, 2003
Title : **ULTRA-STABLE COMPOSITION COMPRISING MORINGA OIL AND ITS DERIVATIVES AND USES THEREOF**
Docket No. : 502704FLORA.0200

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 denied.

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.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

NOBLITT & GILMORE, LLC.
4800 NORTH SCOTTSDALE ROAD
SUITE 6000
SCOTTSDALE AZ 85251

CBN/eme

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IBM CORPORATION (VE)
C/O VOLEL EMILE
P. O. BOX 162485
AUSTIN, TX 78716

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SEP 12 2008

OFFICE OF PETITIONS

In re Application of :
Abdelhadi et al. :
Application No. 09/964,999 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. AUS920010901US1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of February 21, 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 April 14, 2008. See MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2157 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Sanaa F. Abdelhadi	: DECISION ON REQUEST FOR
Patent Number	: 7660886	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/965,002	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2189** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 05/17/2010

Applicant : Sanaa F. Abdelhadi
Patent Number : 7660886
Issue Date : 02/09/2010
Application No: 09/965,002
Filed : 09/27/2001

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **2294** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

COPY MAILED

OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
Vicknair et al. :
Application No. 09/965,014 :
Filed: September 27, 2001 :
Title of Invention: :
SYSTEM FOR CHARACTER VALIDATION :
AND METHOD THEREFOR :

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed February 9, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on May 10, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the February 9, 2005 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2142 for processing of the Amendment, filed October 3, 2005, 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
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LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK LLP
600 SOUTH AVE WEST
WESTFIELD NJ 07090

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MAY 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Tait, et al.	:	
Application No. 09/965,025	:	DECISION ON PETITION
Filed: September 27, 2001	:	
Attorney Docket No. HALFOR 3.0-001	:	

This is a decision on paper titled "PETITION TO WITHDRAW HOLDING OF AN ABANDONMENT (FAILURE TO RECEIVE OFFICE ACTION", filed March 27, 2006, which is being treated as a petition under 37 CFR 1.181.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed July 1, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 2, 2005. A Notice of Abandonment was mailed on January 12, 2006.

Petitioner argues that the July 1, 2005 Office action was mailed to the incorrect address. The application file reveals that a Power of Attorney was filed on June 21, 2005, directing the Office to address all correspondence to the above address. However, the Power of Attorney was not entered and the July 1, 2005 Office action was mailed to the prior address of record.

In view thereof, **the holding of abandonment is withdrawn.**

The application file is being forwarded to Group Art Unit 2163 for re-mailing of the July 1, 2005 Office action, setting a new period for reply.

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 Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJr: 05-06

Paper No: __

PHILMORE H. COLBURN II
CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

COPY MAILED

MAY 30 2006

OFFICE OF PETITIONS

In re Application of :
Chu, et al. :
Application No. 09/965,037 : ON PETITION
Filed/Deposited: 27 September, 2001
Attorney Docket No.POU920010085US1
:
:

This is a decision on the petition filed on 4 May, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(It appears that Petitioner's only alternative herein is to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 2 June, 2005, with reply due absent extension of time on or before 2 September, 2005;

- Petitioner filed an after-final amendment, which was not a proper reply (in that: (a) it did not place the application prima facie in condition for allowance, or alternatively (b) was not a Notice of Appeal and fee, or a request for continued examination (RCE) with fee and submission—see MPEP§711.03(c))) and to which the Examiner responded with an advisory action on 5 October, 2005;

- the Office mailed a Notice of Abandonment on 21 April, 2006;

- 4 May, 2006, Petitioner filed the instant petition, alleging a history of filings, but clearly not addressing Petitioner's own failure to file a proper reply—moreover, as of this writing, Petitioner has filed no proper reply.

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1 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

---

3 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

4 Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

5 See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

6 See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

7 See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

8 Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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.[9]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the

9 See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

Petitioner appears not to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

It appears that Petitioner's only alternative to irretrievable abandonment may be petition alleging unintentional delay under 37 C.F.R. §1.137(b).[10]

10 The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[11]

By mail: Commissioner for Patents[12]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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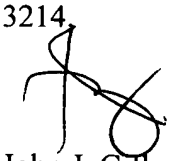
11 On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

12 To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

06 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sandra M. Sovinski
MYERS & ASSOCIATES
Intellectual Property Law, P.C.
1827 Powers Ferry Road
Building 3, Suite 200
Atlanta, Georgia 30339

In re Application of :
Stephan HAUSER :
Application No.: 09/965,050 : DECISION ON
Filing Date: 27 September 2001 : PETITION
Attorney Docket No.: 2001-6010-RA : UNDER 37 CFR 1.137(b)
For: 3-DIMENSIONAL MAT-SYSTEM FOR :
POSITIONING STAGGERED ARRANGEMENT :
AND VARIATION OF AGGREGATE IN :
CEMENT-BONDED STRUCTURES :

The "PETITION TO REVIVE UNDER 37 CFR 1.137(b)" filed 24 October 2001 in the above-captioned application is hereby **GRANTED** as to the National stage in the United States of America as follows:

The appropriate petition fee for a small entity as required by 37 CFR 1.17(m) has been paid.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirement under 37 CFR 1.137(b)(3) at the time of filing this petition.

International Application PCT/IB00/01369 became abandoned as to the National stage in the United States of America at midnight on 27 June 2001 for failure to pay the basic national fee. The filing of the present application under 35 U.S.C. 111 as a PCT continuation application is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c). International Application PCT/IB00/01369 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, International Application PCT/IB00/01369 is again abandoned in favor of the present continuing application number 09/965,050.

Applicant is entitled to claim benefit under 35 U,S,C, 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 09/965,050) and the international application (PCT/IB00/01369) designating the United States were copending on 27 September 2001. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is a continuation of international application PCT/IB00/01369, filed 26 September 2000, which designated the United States and is now abandoned."

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant **must** submit a certified copy of the priority document. The certified copy of the priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP §1896.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

NNH/LES:hn

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (703) 308-6508

08 AUG 20

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sandra M. Sovinski
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Atlanta, Georgia 30339

In re Application of :
Stephan HAUSER :
Application No.: 09/965,050 : DECISION ON
Filing Date: 27 September 2001 : PETITION
Attorney Docket No.: 2001-6010-RA : UNDER 37 CFR 1.137(b)
For: 3-DIMENSIONAL MAT-SYSTEM FOR :
POSITIONING STAGGERED ARRANGEMENT :
AND VARIATION OF AGGREGATE IN :
CEMENT-BONDED STRUCTURES :

The "PETITION TO REVIVE UNDER 37 CFR 1.137(b)" filed 24 October 2001 in the above-captioned application is hereby **GRANTED** as to the National stage in the United States of America as follows:

The appropriate petition fee for a small entity as required by 37 CFR 1.17(m) has been paid.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirement under 37 CFR 1.137(b)(3) at the time of filing this petition.

International Application PCT/IB00/01369 became abandoned as to the National stage in the United States of America at midnight on 27 June 2001 for failure to pay the basic national fee. The filing of the present application under 35 U.S.C. 111 as a PCT continuation application is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c). International Application PCT/IB00/01369 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, International Application PCT/IB00/01369 is again abandoned in favor of the present continuing application number 09/965,050.

Applicant is entitled to claim benefit under 35 U,S,C, 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 09/965,050) and the international application (PCT/IB00/01369) designating the United States were copending on 27 September 2001. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is a continuation of international application PCT/IB00/01369, filed 26 September 2000, which designated the United States and is now abandoned."

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of the priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP §1896.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
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Tel: (703) 308-6508

UNITED STATES PATENT AND TRADEMARK OFFICE

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0 8 SEP 2003

Sandra M. Sovinksi
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Intellectual Property Law, P.C.
1827 Powers Ferry Road
Building 3, Suite 200
Atlanta, Georgia 30339

In re Application of	
HAUSER	DECISION ON
Application No.: 09/965,050	
Int. Filing Date: 27 September 2001	PETITION
Attorney's Docket No.: 2001-6010-RA	
For: 3-DIMENSIONAL MAT-SYSTEM FOR POSITIONING STAGGERED ARRANGEMENT AND VARIATION OF AGGREGATE IN CEMENT-BONDED STRUCTURES	UNDER 37 CFR 1.181

This is in response to the petition under 37 CFR 1.181, filed 25 December 2002, requesting that the above identified application be treated as a submission under 35 U.S.C. 371 as a national stage application of international application PCT/IB00/01369.

In a decision dated 06 August 2002, applicant's petition to revive PCT/IB00/01369 was granted for the purposes of establishing continuity with U.S. application 09/965,050, which was considered as a filing under 35 U.S.C. 111(a). In the 25 December 2002, applicant has stated that "this application was filed as a submission to enter the national stage under 35 U.S.C. 371, not as a continuation." Applicant has requested a further explanation regarding the status of this application and the priority.

On 27 September 2001, applicant filed a "UTILITY PATENT APPLICATION TRANSMITTAL" (Form PTO/SB/05) accompanied by, inter alia,: filing fee, specification, claims and drawings . On 24 October 2001, applicant filed a petition to revive the international application and a transmittal letter (Form PTO-1390) for entry into the national stage in the United States.

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

* * *

To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.

Alternatively, one of the following indications may be used:

1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or

2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the described in the identified international application.

* * *

If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The "UTILITY PATENT APPLICATION TRANSMITTAL" (Form PTO/SB/05) filed on September 27, 2001 indicated that the application was a filing of a new nonprovisional application under 37 CFR 1.53(b) The transmittal letter used by applicant is to be used only with submissions under 35 U.S.C. 111(a). Note that the transmittal letter has the statement "(Only for new nonprovisional applications under 37 CFR 1.53(b))." The filing under 37 CFR 1.53(b) is only directed to application filed under 35 U.S.C. 111(a). Additionally, applicant filed on September 27, 2001 a letter that stated, "Please find enclosed for filing the above-referenced non-provisional patent application, a submission to enter the national stage under 35 U.S.C. 371...." The declaration filed on September 27, 2001 is directed to the specification of which was filed as PCT international application Number PCT/IB00/01369 on September 26, 2000. As indicated above the declaration is an indication that the application was being filed under 35 U.S.C. 371. However, applicant's reference in the declaration to the PCT application and letter is inconsistent with the transmittal letter filed September 27, 2001 and contradicts the request in the transmittal letter (Form PTO/SB/05) to file under 35 U.S.C. 111(a). Since applicant gave conflicting instructions, the papers were properly considered as having been filed under 35 U.S.C. 111(a) with a filing date of September 27, 2001. The later filed papers cannot change the status of the original filing.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 09/965,050) and the international application (PCT/IB00/01369) designating the United States were copending on 27 September 2001. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/IB00/01369, filed 26 September 2000, which designated the United States and is now abandoned." In addition, since the application was filed after November 29, 2000, applicant must file a surcharge and petition under 37 CFR 1.78(a)(3) for an unintentionally delayed claim under 35 U.S.C. 365(c) for the benefit of a prior international application.

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

CONCLUSION

The petition under 37 CFR 1.181 is DISMISSED without prejudice.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

This application is being returned to Tech Center 3600.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

Telephone: (703) 308-6461
Facsimile: (703) 308-6459

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Ms. Gudrun E. Huckett, Ph.D.
LONSSTR. 53
42289 WUPPERTAL,
GERMANY

Paper No. 14

In re Application of
Stephan Hauser
Application No. 09/965,050
Filed: September 27, 2001
For: 3-DIMENSIONAL MAT-SYSTEM FOR POSITIONING, STAGGERED ARRANGEMENT AND VARIATION OF AGGREGATE IN CEMENT-BONDED STRUCTURES

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's Petition to Withdrawal the Holding of Abandonment filed in the United States Patent and Trademark Office on October 17, 2003.

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 June 9, 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 filed with the petition, the requested address change and new power of attorney, then to the examiner for prompt action on the response.

cps/1/21/04

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

JAMES H SALTER
BLACKALL SOKOLOFF TAYLOR & ZAFMAN
1240 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025-1026

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MAY 1 4 2002

OFFICE OF PETITIONS

In re Application of :
Michael J. Payne et al :
Application No. 09/965,052 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. 042390.P11780 :

This is in response to the petition under 37 CFR 1.47(a), filed February 20, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), the declaration and power of attorney fails to set forth the citizenship for inventors Coelho and Hawash. The statute at 35 USC 115 requires that the declaration shall state the country of citizenship of each inventor. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 and signed by all the other joint inventors on behalf of themselves and on behalf of nonsigning inventors Coelho and Hawash and leaving the signature blocks for Coelho and Hawash blank is REQUIRED. See MPEP 409.03(a), 602, and 605.01. See also 37 CFR 1.63(a)(3).

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Wan Laymon.

Further correspondence with respect to this matter should be addressed as follows:

By mail: U.S. Patent and Trademark Office
Mail Stop DAC
P.O. Box 2327
Arlington, VA 22202

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 10

James H. Salter
Blakely, Sokoloff, Taylor & Zafman
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1030

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OCT 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Michael Payne, Karl Allen, :
Rohan Coelho and Maher Hawash : DECISION ACCORDING STATUS
Application No. 09/965,052 : UNDER 37 C.F.R. § 1.47(a)
Filed: September 25, 2001 :
Title: SPEAKER INDEPENDENT VOICE :
RECOGNITION (SIVR) USING DYNAMIC :
ASSIGNMENT OF SPEECH CONTEXTS, :
DYNAMIC BIASING, AND MULTI-PASS :
PARSING :

This responds to the "Response to Dismissal of 37 C.F.R. § 1.47(a)," filed July 22, 2002; and the "Petition for Suspension of Rules under 37 C.F.R. § 1.183(a)," filed July 29, 2002.

The petition under § 1.47(a) is **GRANTED**.

The petition under § 1.183(a) is **DISMISSED AS MOOT**.

The above-identified application was filed on September 25, 2001, with a declaration executed by joint inventors Allen and Payne on behalf of themselves and on behalf of nonsigning inventors Coelho and Hawash. No petition under § 1.47 accompanied this declaration. Accordingly, on October 30, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring the signatures of inventors Coelho and Hawash on a declaration and the surcharge under § 1.16(e) for late filing. This Notice set a period for reply of two months from the mailing date of the notice, with extensions of time obtainable under § 1.136(a).

On February 22, 2002, applicants filed the initial petition under § 1.47, and paid the late surcharge. This response was made timely by an accompanying petition for extension within the second month (and fee). Applicants asserted that status under § 1.47 was proper because inventors Coelho and Hawash refused to join in the application. However, the petition was dismissed because the declaration submitted was not acceptable; it did not include the citizenships of inventors Coelho and Hawash (Decision mailed May 14, 2002).

On instant request for reconsideration, applicants filed a new declaration executed by joint inventor Payne on behalf of himself and on behalf of nonsigning inventors Allen, Coelho and Hawash. Further, applicants have asserted that status under § 1.47 is now proper as to inventor Allen because this previously signing inventor refuses to execute the new declaration.

When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a). If there are no joint inventor(s), then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

However, waiver is not relevant in this instance. The declaration filed February 20, 2002 was not accepted, and thus, is not considered the original declaration. Accordingly, no petition for suspension of the rules under 37 C.F.R. § 1.183(a) is necessary, as the declaration filed July 22, 2002, is the first declaration accepted in this application. This declaration is considered an original declaration under § 1.63, not a supplemental declaration under § 1.67. The issue now is whether the original declaration filed July 22, 2002, will be accepted without the signatures of inventors Allen, Coelho and Hawash.

The declaration filed July 22, 2002 has been reviewed and found acceptable. The statement of facts concerning the refusal of inventor Allen has been considered. It has been determined that the evidence is sufficient to show that inventor Allen now refuses to join in the application. The unavailability of inventors Coelho and Hawash was shown on initial petition.

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6968329
Issue Date: November 22,2005
Application No. 09965053
Filed: September 26,2001
Attorney Docket No. 80920.0016

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 13,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 13,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,968,329	2005-11-22	09/965,053	2001-09-26	8878G000

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	/Judith Szepesi/	Date (YYYY-MM-DD)	2010-07-13
Name	Judith A. Szepesi	Registration Number	39393

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.

OIPE JC101 JAN 26 2004 PATENT & TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 13

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RECEIVED SEP 29 2003

Slater & Matsil
17950 Preston Road
Suite 1000
Dallas, TX 75252

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SEP 25 2003

OFFICE OF PETITIONS

In re Application of :
Mihel Seitz et al. :
Application No. 09/965,092 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 2001 P 17968 US :

This is a decision on the petition filed August 21, 2003, and supplemented on ,to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue fee. 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. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the petition to charge any additional fees due, the $1300 issue fee will be charged to Deposit Account No. 50-1065. The issue fee is not refundable and may not be applied towards payment of the issue fee in the continuing application (in the event it is allowed).

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. The request and pertinent attachments should be addressed to **Box Issue Fee.** Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request in writing that the previously paid issue fee b applied towards the new Notice and payment f any balance due will result in the abandonment of th application.**

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 2812 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 11

Chuck Xu
c/o DuPont Photonics Technologies, LLC
100 Fordham Road
Wilmington, MA 01887

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SEP 15 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Fujita, et al.
Application No. 09/965,096
Filed: September 27, 2001
Attorney Docket No.: 6005

This is a decision on the petition under 37 CFR 1.137(a), filed July 28, 2003 to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of petition under 37 CFR 1.137(a) 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 above-identified application became abandoned for failure to reply in a timely and proper manner to the non-final Office action mailed September 13, 2002, which set a shortened period for reply of three months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No reply was received within the allowable period, and the application became abandoned on December 14, 2002. A Notice of Abandonment was mailed on July 3, 2003.

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(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (1) and (2) above.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily

---

[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.

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 judgement 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]

---

[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 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.

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 a proper response to the non-final Office action was filed on March 13, 2003, along with a request for extension of time within the third month. As evidence of the same, petitioner provided a certificate of mailing under 37 CFR 1.8 that allegedly accompanied the reply to the non-final Office action.

As to item (1), a review of the application file did not reveal a response to the non-final Office action mailed September 13, 2002. Petitioner did not provide a copy of the response allegedly filed with the instant petition. Before a petition under 37 CFR 1.137(a) can be considered grantable, petitioner must provide a proper response to the non-final Office action (or a copy of the same.) Additionally, the request fro an extension of time within the third month was not found in the application file. Petitioner should also provide a copy of that document with any renewed petition filed.

As to item (2), petitioner did not remit the fee for the instant petition or authorize a deposit account to be charged. The fee for a petition under 37 CFR 1.137(a) is $110.00 for a large entity or $55.00 for a small entity and must accompany any renewed petition filed.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($1,300.00 for a large entity and $650.00 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. A copy of a blank petition form PTO/SB/64 is enclosed for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By facsimile:
(703) 308-6916
Attn: Office of Petitions

By hand:
Office of Petitions
2201 South Clarke Place
Crystal Plaza 4, Suite 3C23
Arlington, Virginia 22202

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

Chuck Xu
c/o DuPont Photonics
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100 Fordham Road
Wilmington, MA 01887

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FEB 12 2004

OFFICE OF PETITIONS

In re Application of

Fujita, et al.

Application No. 09/965,096

: DECISION ON PETITION

Filed: September 27, 2001

:

Attorney Docket No. 6005

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 13, 2002, which set a shortened statutory period for reply of three (3) months from its mailing date. A proper reply was not received within the allowable period and the application became abandoned on December 14, 2002. A Notice of Abandonment was mailed on July 3, 2003. The petition under 37 CFR 1.137(a) filed July 28, 2003, was dismissed by a decision mailed September 15, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Deposit account 04-1928 will be charged $1,330.00 for the instant petition fee.

The application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Barbara C. Siegell
4418 Lancaster Pike
Wilmington, DE 19805

UNITED STATES 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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LEGAL/PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
WILMINGTON DE 19805

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DEC 20 2004

OFFICE OF PETITIONS

In re Application of :
Junichiro Fujita et al :
Application No. 09/965,096 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. 6005 :

This is a decision on the petition, filed December 16, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(2) Consideration of a submission pursuant to 37 CFR 1.114; or
(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The instant petition is not accompanied by none of the above.

Petitioner may consider filing under 37 CFR 1.313(c)(2).

A response to this decision must be filed within **ONE MONTH** from the mail date of this letter.

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 facsimile: (571) 273-0025
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 10

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

MAIL

JUN 17 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Robert L. Thompson :
Application No. 09/965,136 : DECISION ON PETITION
Filed: September 27, 2001 : TO MAKE SPECIAL
For: SYSTEM AND METHOD FOR
OBTAINING AND UTILIZING
MAINTENANCE INFORMATION

This is a decision on the Petition To Make Special under M.P.E.P. § 708.02, VIII: accelerated examination which is treated as M.P.E.P. § 708.02, XI: Invention for Countering Terrorism, filed September 27, 2001.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with M.P.E.P. § 708.02, Section XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 C.F.R. § 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism.

The petition includes the above requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 05-02

Paper No. 6

THOMPSON HINE L.L.P.
2000 COURTHOUSE PLAZA , N.E.
10 WEST SECOND STREET
DAYTON OH 45402

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MAY 20 2002

OFFICE OF PETITIONS

In re Application of
Keegan, Nagarajan, and Jana
Application No. 09/965,142
Filed: 27 September, 2001
Attorney Docket No. 483471-009C1

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on 27 February, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified issue application was filed on 27 September, 2001, with a declaration naming James M. Keegan, Sundaram Nagarajan, and Sushil R. Jana as joint inventors and signed by joint inventors Keegan and Nagarajan on behalf of themselves and joint inventor Jana. Accordingly, on 23 October, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an oath or declaration signed by joint inventor Jana and a surcharge for its late filing.

In response, on 27 February, 2002 (certificate of mailing date 14

February, 2002), the present petition was filed, accompanied by a two (2)-month extension of time. Petitioners assert that Jana was sent a copy of the application for patent but has not returned a signed declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2). In respect to item (2), above, it is noted that the declaration filed on 2 October, 2001, is defective in that it does not state that the person(s) making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person(s) to be material to patentability as defined in 37 CFR 1.56. Rather, the declaration incorrectly acknowledges a duty to disclose all information material to examination of the application. Additionally, the residence and mailing addresses for the non-signing inventor appear to be incorrect in that they are different from the inventor's last known address. 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.[1] Additionally, the residence address must include the city and state where the inventor resides.[2] Additionally the declaration contains is defective in that it contains non initialed and/or non-dated alterations.[3] Specifically, there are unsigned and/or undated changes for joint inventor Nagarajano. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by

---

[1] MPEP 605.03.

[2] MPEP 605.02.

[3] See 37 CFR 1.52(c).

all of the signing inventors on behalf of themselves and the non-signing inventor must be submitted with a renewed petition.

The power of attorney filed on 22 April, 2002, cannot be accepted because the assignee must establish its right to take action in accordance with 37 CFR 3.73. Nevertheless, correspondence is being mailed to the address specified in 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 should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

THOMPSON HINE L.L.P.
2000 COURTHOUSE PLAZA , N.E.
10 WEST SECOND STREET
DAYTON OH 45402

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JUL 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Keegan, Nagarajan, and Jana	:	
Application No. 09/965,142	:	DECISION ACCORDING STATUS
Filed: 27 September, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 483471-009C1	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 15 July, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Sushil R. Jana, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the statement of petitioners' registered patent attorney, Mark P. Levy, that a copy of the above-identified application was sent to the non-signing last known inventor's address. The non-signing inventor refused to sign the declaration naming him as a joint inventor along with James M. Keegan and Sundaram Nagarajan, however, by letter dated 5 February, 2002.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Sushil R. Jana
801 Wilson Avenue
Hanover, PA 17331

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JUL 26 2002

OFFICE OF PETITIONS

In re Application of
Keegan et al.
Application No. 09/965,142
Filed: 27 September, 2001
For: ALUMINUM METAL-CORE WELD WIRE AND METHOD FOR FORMING THE SAME

Dear Mr. Jana:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Jay D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

THOMPSON HINE L.L.P.
2000 COURTHOUSE PLAZA , N.E.
10 WEST SECOND STREET
DAYTON OH 45402

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Paper No. 9

THOMPSON HINE L.L.P.
2000 COURTHOUSE PLAZA , N.E.
10 WEST SECOND STREET
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9/13/02 OA ?.
7/26/02 7/15 petition granted

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RECEIVED
JUL 31 2002
DOCKETED

In re Application of :
Keegan, Nagarajan, and Jana :
Application No. 09/965,142 : DECISION ACCORDING STATUS
Filed: 27 September, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 483471-009C1 :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 15 July, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Sushil R. Jana, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the statement of petitioners' registered patent attorney, Mark P. Levy, that a copy of the above-identified application was sent to the non-signing last known inventor's address. The non-signing inventor refused to sign the declaration naming him as a joint inventor along with James M. Keegan and Sundaram Nagarajan, however, by letter dated 5 February, 2002.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

409.03(a) At Least One Joint Inventor Available

37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, requires all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application."

In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a) must meet the following requirements:

(A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

(B) The application must be accompanied by proof that the nonsigning inventor (1) cannot be found or reached after diligent effort or (2) refuses to execute the application papers. See MPEP § 409.03(d).

(C) The last known address of the nonsigning joint inventor must be stated. See MPEP § 409.03(e).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 9/965142

Paper No.: _____

DATE : 10/5/05

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction on Patent No.: 6933468 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.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Ok to enter CofC

2/2/06

SPE

1725

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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SEP 0 5 2007

OFFICE OF PETITIONS

In re Application of
Jimmy Ming-Der Hsu
Application No. 09/965,145
Filed: September 27, 2001
Attorney Docket No. AUS920010508US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed March 15, 2007, requesting revival of 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 (and fee) under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to timely pay the issue and publication fee on or before November 24, 2004, in reply to the Notice of Allowance mailed August 24, 2004. A Notice of Abandonment was mailed on January 13, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) an adequate 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**) in some instances, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (4) above.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where

there is a question whether the delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). Here in view of the inordinate delay in the attempt to resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The language of both 35 USC 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), and clearly stated clear that any protracted delay could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a detailed explanation that will excuse the delay as opposed to a general allegation. See Lawman Armor v. Simon, 2005 U.S. Dist. Lexis 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any renewed petition may be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building 401 Dulany Street
Alexandria, VA 22314:

By fax: (571) 273-8300
ATTN: Office of Petitions

Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
IBM INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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AUG 18 2008

OFFICE OF PETITIONS

In re Application of :
Jimmy Ming-Der Hsu :
Application No. 09/965,145 : DECISION GRANTING PETITION
Filed: September 27, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. AUS920010508US1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed August 24, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin NJ 08830

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
MARCEL B. MANZARDO :
JOSEPH EDWARD ZAHNER : DECISION ON PETITION
Application No. 09/965,180 :
Filed: September 27, 2001 :
Attorney Docket No. 2001P17794US

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and the publication fee in a timely manner in reply to the Notice of Allowance mailed December 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on March 16, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee of $ 1,400 and publication fee of $300; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment and publication fee payment are accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Jean F. Duverne at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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TECHNOLOGY CENTER 2100

Paper No. 4

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

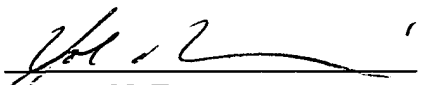
In re Application of: Chee How, LIM et al.)
Application No. 09/965,223)
Filed: September 28, 2001) **DECISION ON REQUEST FOR**
For: GLOBAL I/O TIMING) **WITHDRAWAL AS ATTORNEY**
ADJUSTMENT USING)
CALIBRATED DELAY ELEMENTS)

This is a decision on the Request To Withdraw from Representation filed July 21, 2003..

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
c/o Grace Abercrombie
1279 Oakmead Parkway
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUN 07 2002
OFFICE OF PETITIONS

Paper No. 6

JAMES H SALTER
BLACKALL SOKOLOFF TAYLOR & ZAFMAN
1240 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025-1026

COPY MAILED
MAY 20 2002
OFFICE OF PETITIONS

In re Application of :
Michael J. Payne et al :
Application No. 09/965,230 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. 042390.P12154 :

This is in response to the petition under 37 CFR 1.47(a), filed February 13, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), the declaration and power of attorney fails to set forth the citizenship for inventor Rohan Coelho. The statute at 35 USC 115 requires that the declaration shall state the country of citizenship of each inventor. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 and signed by signing inventor Payne on behalf of himself and on behalf of nonsigning inventors Coelho and Hawash and leaving the signature block for nonsigning inventors Coelho and Hawash blank is REQUIRED. See MPEP 409.03(a), 602, and 605.01. See also 37 CFR 1.63(a)(3).

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Wan Laymon.

Further correspondence with respect to this matter should be addressed as follows:

By mail: U.S. Patent and Trademark Office
Mail Stop DAC
P.O: Box 2327
Arlington, VA 22202

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 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

JAMES H SALTER
BLACKALL SOKOLOFF TAYLOR & ZAFMAN
1240 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CA 90025-1026

COPY MAILED
MAY 20 2002
OFFICE OF PETITIONS

In re Application of :
Michael J. Payne et al :
Application No. 09/965,230 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. 042390.P12154 :

COPY MAILED
DEC 11 2002
OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a), filed February 13, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), the declaration and power of attorney fails to set forth the citizenship for inventor Rohan Coelho. The statute at 35 USC 115 requires that the declaration shall state the country of citizenship of each inventor. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 and signed by signing inventor Payne on behalf of himself and on behalf of nonsigning inventors Coelho and Hawash and leaving the signature block for nonsigning inventors Coelho and Hawash blank is REQUIRED. See MPEP 409.03(a), 602, and 605.01. See also 37 CFR 1.63(a)(3).

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Wan Laymon.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
U.S. Patent and Trademark Office
Mail Stop DAC
P.O. Box 2327
Arlington, VA 22202

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 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Please aband this case.
No reconsideration was
submitted with in the
set time period in the
petition mailed
Dec. 11, 2002.

Serial # 09/965,230

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

JAMES H. SALTER
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

COPY MAILED

OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of
Michael J. Payne et al
Application No. 09/965,230
Filed: September 25, 2001
Attorney Docket No. 042390.P12154

ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) and on the renewed petition under 37 CFR 1.47(a), filed September 3, 2003, to withdraw the holding of abandonment and requesting reconsideration of the decision mailed December 11, 2002 in the above-identified application.

The petitions are **Granted**.

The above-identified application was held abandoned for failure to reply in a timely manner to the decision remailed on December 11, 2002 dismissing the petition to accord 37 CFR 1.47(a) status to the instant application. The decision set a period for reply of two (2) months. Extensions of time under the provisions of 37 CFR 1.136(a) were permitted. Therefore, a reply, with the appropriate extension of time fee, was due on or before July 11, 2003.

Petition states that the Office communication remailed on December 11, 2002 was not received by the petitioner and attests that a search of the file jacket and docket records indicates that the Office communication was not received. A review of the file indicates that the Office communication was mailed to the wrong address.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this

The Office sincerely apologizes for the inconvenience caused petitioner in this matter.

This application is being returned to the Office of Initial Patent Examination for preexamination processing.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAHER M. HAWASH
2642 NE AURORA DRIVE
HILLSBORO, OR 97124

COPY MAILED

OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of
Payne; Coelho; and Hawash
Application No. 09/965,230
Filed: September 25, 2001
For: COLOR AS A VISUAL CUE IN SPEECH-ENABLED APPLICATIONS

Dear Mr. Hawash:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
JAMES H. SALTER
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ROHAN COELHO
14949 NW WEST UNION
PORTLAND, OR 97229

COPY MAILED

OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of
Payne; Coelho; and Hawash
Application No. 09/965,230
Filed: September 25, 2001
For: COLOR AS A VISUAL CUE IN SPEECH-ENABLED APPLICATIONS

Dear Mr. Coelho:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
JAMES H. SALTER
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

AUG 1 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

James H. Salter
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025

In re Application of :
MICHAEL J. PAYNE, *et al.* :
Serial No.: 09/965,230 :
Filed: September 25, 2001 : DECISION ON PETITION
For: **COLOR AS A VISUAL CUE IN SPEECH-ENABLED APPLICATIONS** : ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2) filed September 25, 2001 and resubmitted on February 7, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings, although not specifically identified, are noted as Figures 1, 1A, 2, 3 and 4 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition meets all these requirements.

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

COPY MAILED

JUN 25 2007

OFFICE OF PETITIONS

In re Application of :
Raftelis et al. :
Application No. 09/965,238 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. WHIT020 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 7, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed July 28, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 29, 2005. A Notice of Abandonment was mailed November 7, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). Petitioner submitted a Request for Continued Examination (RCE) with the instant petition. See 37 CFR 1.114(a). An applicant cannot request continued examination of an application until after prosecution in the application is closed. Prosecution in an application is closed if the application is under appeal, or the last Office action is a final action (37 CFR 1.113), a notice of allowance (37 CFR 1.311), or an action that otherwise closes prosecution in the application (e.g., an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935)). Since the last Office action was non-final, an RCE is not a proper response.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

COPY MAILED

JAN 15 2008

OFFICE OF PETITIONS

In re Application of :
SOLIMAN, SAMIR S. :
Application No. 09/965,341 : DECISION ON PETITION
Filed: 09/27/2001 :
Attorney Docket No. 010427 :

This is a decision on the petition under 37 CFR 1.181, filed May 16, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The undersigned immediately reviewed the petition and rendered the following decision upon its receipt. The Office sincerely apologizes for any inconvenience.

The application became abandoned for failure to respond timely to the final Office action, mailed on February 23, 2004, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the application was held abandoned on May 24, 2004. A Notice of Abandonment was mailed on November 30, 2004.

Petitioner asserts that he timely submitted a response to the final Office action via facsimile transmission on April 20, 2004. In support of the assertion, petitioner supplied copies of the reply in the form of a Request for Continued Examination (RCE) Transmittal, an authorization to charge the RCE fee, and an amendment. The RCE included a certificate of facsimile transmission under 37 CFR 1.8 dated April 20, 2004, signed by Sheryl Schoen. Additionally, petitioner provided a Statement under 37 CFR 1.8(b)(3) by Sheryl Schoen, and a copy of the USPTO's Auto-Reply Facsimile Transmission, acknowledging receipt of 12 pages (including the cover page) in USPTO on April 20, 2004.

37 CFR 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 by the U.S. 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 Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

In view of the above, the required reply is considered timely filed pursuant to 37 CFR 1.8(b). Accordingly, the petition under 37 CFR 1.181 is **granted** and the holding of abandonment is withdrawn. The application will be restored to pending status. No petition fee is necessary.

This matter is being referred to Technology Center Art Unit 2682 for review of the RCE and the submission under 37 CFR 1.114 resubmitted with the petition on May 16, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GATEWAY, INC.
ATTN: SCOTT CHARLES RICHARDSON
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY, SD 57049

COPY MAILED

FEB 1 3 2006

OFFICE OF PETITIONS

In re Application of :
Jerry L. Beckman :
Application No. 09/965,353 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. 450.329US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed November 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 3, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BERRY & ASSOCIATES P.C.
9255 SUNSET BOULEVARD
SUITE 810
LOS ANGELES CA 90069

COPY MAILED

MAR 03 2008

In re Application of :
Jeffry H. Loucks :
Application No. 09/965,374 : DECISION ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. **3612.PALM.PSI** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 12, 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 June 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office Action of March 12, 2007 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 2195 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BERRY & ASSOCIATES P.C.
9229 SUNSET BOULEVARD
SUITE 630
LOS ANGELES, CA 90069

Mail Date: 04/21/2010

Applicant	: Jeffry Harlow Loucks	: DECISION ON REQUEST FOR
Patent Number	: 7647591	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/965,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1515** 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

January 27, 2009

Elsa Keller
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Patent No.: 7,428,223 B2
Application No.: 09/965,375
Inventor(s): Florian Patrick Nierhaus
Issued: September 23, 2008
Title: **METHOD FOR BACKGROUND NOISE REDUCTION AND PERFORMANCE IMPROVEMENT IN VOICE CONFERENCING OVER PACKETIZED NETWORK**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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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WITHERS & KEYS LLC
PO BOX 71355
MARIETTA, GA 30007-1355

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MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Jess Baker, et al. :
Application No. 09/965,398 :
Filed: September 28, 2001 :
Attorney Docket No. BS01-231 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 15, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED.**

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on September 27, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen 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 Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to Technology Center Art Unit 2642 for examination in due course.

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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Paper No.

DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN, TX 78768

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of :
Rosengaus et al. : DECISION ON PETITION
Application No. 09/965,408 :
Filed: September 25, 2001 :
Atty Docket No. 5589-02701 :

This is a decision on the petition filed on March 14, 2002, pursuant to 37 C.F.R. §1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed December 16, 2004. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No proper reply having been received and no extension of time obtained, the application became abandoned effective March 17, 2005. A Notice of Abandonment was mailed on August 10, 2005.

On petition, petitioner submitted the required reply in the form of a response after final, paid the petition fee, and made the required statement of unintentional delay. (As this application was filed after June 8, 1995, no terminal disclaimer is required.)

Technology Center AU 2877 has been advised of this decision. The application file is, thereby, forwarded to Technology Center

2877 for consideration of the response submitted on petition filed September 27, 2005.

Telephone inquiries concerning 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
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ALEXANDRIA, VA 22313-1450
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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
C/O PORTFOLIO IP
P. O. BOX 52050
MINNEAPOLIS MN 55402

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APR 26 2007

OFFICE OF PETITIONS

In re Application of :
Ho, et al. :
Application No. 09/965,419 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. P18421 :
For: METHOD AND APPARATUS FOR ENCODING INFORMATION

This is a decision on the petition under 37 CFR 1.181, filed April 11, 2007, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the February 27, 2006 Notice of Non-Compliant Amendment (Notice), which set an extendable one month period for reply. No extensions of time or reply being received, the Office considered this application abandoned on March 28, 2006. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Petitioners allege that the February 27, 2006 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the February 27, 2006 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner did not include a statement that a search of the file jacket indicates that the Office communication was not received.

Petitioner has not provided adequate evidence of non-receipt. The petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O PORTFOLIO IP
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MINNEAPOLIS MN 55402

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of :
Ho, et al. :
Application No. 09/965,419 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. P18421 :
For: METHOD AND APPARATUS FOR ENCODING INFORMATION

This is a decision on the reconsideration petition under 37 CFR 1.181, filed May 25, 2007, to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the February 27, 2006 Notice of Non-Compliant Amendment (Notice), which set an extendable one month period for reply. No extensions of time or reply being received, the Office considered this application abandoned on March 28, 2006. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Petitioners allege that the February 27, 2006 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the petition is granted and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2616 for re-mailing the Office action of February 27, 2006. The period for reply will run from the mailing date of the Office action.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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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Elsa Keller, Legal Assistant
Intellectual Property Department
SIEMENS CORPORATION
186 Wood Avenue South
Iselin NJ 08830

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of
Peggy Stemer
Application No. 09/965,457
Filed: September 27, 2001
Attorney Docket Number: 2001P16707US

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b) filed February 15, 2007. This petition is properly treated as a petition under 1.181 to withdraw the holding of abandonment.[1]

The petition filed under 37 CFR 1.181 is **Granted**.

The petition filed under 37 CFR 1.137(b) is **Dismissed as Moot**.

This above-identified application became abandoned for failure to file a response to a non-final Office action mailed on August 18, 2005. The non-final Office action set an extendable three (3) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application was held abandoned on November 19, 2005. A Notice of Abandonment was mailed on August 1, 2007.

[1]It is noted that petitioner provided evidence of prior submission of the reply to the August 18, 2005 Office action on September 21, 2006, one month after notification by the examiner that a reply was not received.

Petitioner contends a reply to the final Office action was received in the Office on November 21, 2005. Petitioner states that the reply in the form of an amendment and replacement drawing submitted on November 21, 2005. Petitioner acknowledges that the reply submitted on November 21, 2005 contained an incorrect series code as part of the application number. In support of the petition, petitioner has provided a post card receipt.

The reply has been located in the Office. The reply did contain the correct attorney docket number, filing date, examiner name, applicant name and title of invention. The reply also contained a certificate of mailing pursuant to 37 CFR 1.8.

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 application 10/965,457 rather than the correct application No. **09**/965,457. The Office elects, in this instance, to treat applicant's listing of incorrect series code as part of the application number as a correctable minor error as permitted under MPEP 502. However, applicant is 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.

The response submitted November 21, 2005 has been located. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The $1500.00 petition fee will be refunded to deposit account no.19-2179.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

It is noted the address presented on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person

signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to the Art Unit 2616 for further processing of the reply submitted in reply to the August 18, 2005.

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

cc: David D. Chuang
Siemens Corporation
170 Wood Avenue South
Iselin, New Jersey 08830

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

RHODES & MASON, P.L.L.C.
P.O. BOX 2974
GREENSBORO NC 27402

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of
Smith., *et al.*
Application No. 09/965,485
Filed: September 27, 2001
Attorney Docket No. 2250-013

: DECISION ~~GRANTING~~
: PETITION

This is a decision on the January 3, 2002 petition requesting that the above-identified application, without drawings, be accorded a filing date of September 27, 2001.

The application was filed on without drawings on September 27, 2001.[1] Accordingly, on October 25, 2001, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings. A two month deadline was set for replying with the missing drawings and a new declaration specifically covering said items.

In response, Petitioner filed this petition on January 3, 2002. This is outside of the two month deadline set by the notice. No request for a time extension has been requested, nor has an authorization to charge the fee been supplied. It is recognized that the petition is dated November 13, 2001, but this date is not ratified by a valid certificate of mailing as set forth in 37 CFR 1.8.

Accordingly, this petition is dismissed. Furthermore, as the possibility for filing an extension of time has lapsed, *this application is* ***abandoned***.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted.[2] The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.53". This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Further correspondence with respect to this matter should be addressed as follows:

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] *See* 37 C.F.R. §1.137(d).

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions Four Crystal Plaza, Suite 3C23 2201 South Clark Place Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to Petitions Attorney Scott M. Ledford at 703-306-5593.

Scott M. Ledford
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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Suzanne L. Biggs
Pillsbury Winthrop LLP
Intellectual Property Group
50 Fremont Street
San Francisco, CA 94105

MAILED

FEB 19 2005

Technology Center 2100

In re Application of:
Bryce Nakatani
Application No. 09/965,520
Filed: September 25, 2001
For: SYSTEM AND METHOD OF ADDRESSING AND CONFIGURING A REMOTE DEVICE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 13, 2004 and supplemental request filed January 04, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: OPTO 22
43044 Business Park Drive
Temecula, CA 92590

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 15

DENISE KETRELBERGER
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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MAY 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Preeti Lal, et. al. :
Application No. 09/965,522 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. PF-0221-2 DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 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 June 4, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight September 4, 2002.

The petition is **GRANTED**.

The application is being forwarded to Technology Center 1600.

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
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MURATA MANUFACTURING
COMPANY, LTD.
C/O KEATING & BENNETT, LLP
8180 GREENSBORO DRIVE, SUITE 850
MCLEAN, VA 22102

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Takayo Katsuki et al :
Application No. 09/965,538 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. 36856.550

This is a decision on the petition filed, August 30, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 24, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 11

SCHWEGMAN, LUNDBERG, WOESSNER
& KLUTH
P.O. BOX 2938
MINNEAPOLIS MN 55402

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AUG 27 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of
Michele J. Berry
Application No. 09/965,555
Filed: September 27, 2001
Attorney Docket No. 884.548US1

This is a decision on the petition, filed August 26, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG,WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JAN 3 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michele J. Berry :
Application No. 09/965,555 :
Filed: September 27, 2001 :
Attorney Docket No. 884.548US1 :

This is a decision on the petition, filed January 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).

P titioner is advised that the issue fee paid on November 10, 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 (571) 272-3208.

The examiner of Technology Center AU 2827 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG, WOESSNER &
KLUTH
P.O. BOX 2938
MINNEAPOLIS MN 55402-0938

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
Michele J. Berry :
Application No. 09/965,555 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. 884.548US1 :

This is a decision on the petition, filed September 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 2, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2829 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
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Paul H. Ginsburg
Pfizer Inc.
235 East 42nd Street, 20th Floor
New York, NY 10017-5755

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Anton F. J. Fliri, et al. :
Application No. 09/965,563 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. PC9896B :

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2005, 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.

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 Marvin Bressler appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Bressler 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 1600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Scully, Scott, Murphy & Presser
400 Garden City Plaza – Suite 300
Garden City, NY 11530

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MAIL

MAR - 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Patent Law Group LLP
2635 North First Street
Suite 223
San Jose, CA 95134

In re Application of:
Jordan DU VAL, et al
Application No. 09/965,593
Filed: September 25, 2001
For: DISTRIBUTING DATACAST SIGNALS EMBEDDED IN BROADCAST TRANSMISSIONS OVER A COMPUTER NETWORK

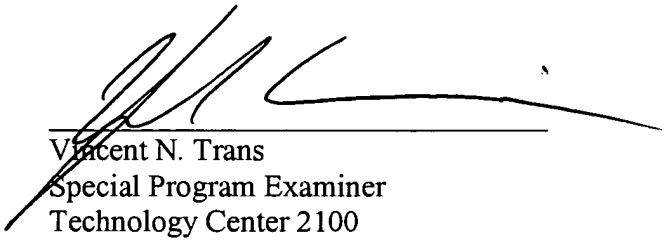
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 4, 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Patent Law Group LLP
2635 North First Street
Suite 223
San Jose, CA 95134

MAIL

APR 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Jordan DuVAL, et al.
Application No. 09/965,593
Filed: September 25, 2001
For: DISTRIBUTING DATACAST SIGNALS EMBEDDED IN BROADCAST TRANSMISISONS OVER A COMPUTER NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed March 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.**

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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
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PATENT LAW GROUP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE, CA 95134

MAIL

JUN 0 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Jordan Du VAL, et al.
Application No.: 09/965,593
Filed: September 25, 2001
For: DISTRIBUTING DATACAST SIGNALS EMBEDDED IN BROADCAST TRANSMISSIONS OVER A COMPUTER NETWORK

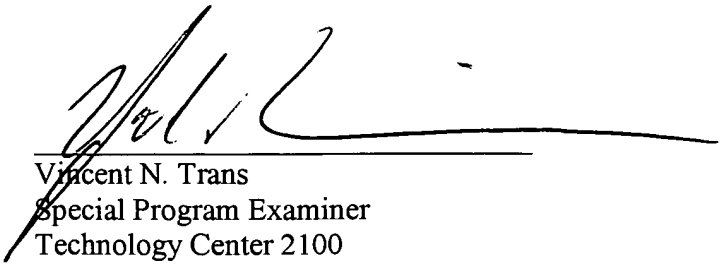
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 3, 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: SpotNet, Inc.
Attn: Jordan Du Val
1642 Canary Drive
Sunnyvale, CA 94087

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

DEC 27 2001

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 3

Otho B. Ross
28th Floor (c/o Bierman)
600 Third Avenue
New York NY 10016

In re Application of: D. S. Gluck et al.
Application No.: 09/965,597
Filed: September 26, 2001
For: AUTOMATED NEW ENERGY TECHNOLOGY CONSULTING AND DEMAND AGGREGATION SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed September 26, 2001 under 37 C.F.R. §102(c) to make the above-identified application special. Due to the content of the petition, it will be treated alternately under M.P.E.P. §708.02(V), Environmental Quality, and M.P.E.P. §708.02(VI), Energy.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section V, must be accompanied by the showing that the application is for an invention which will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil. A petition under M.P.E.P. §708.02, Section V, should be accompanied by statements 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 explaining how the invention materially contributes to the restoration or maintenance of one of these life-sustaining elements. No fee for such a petition is required.

The petition does not meet the requirements for special status in that there is no showing that the invention *materially contributes* to the restoration or maintenance of one of the life-sustaining elements as defined in M.P.E.P. §708.02(V). Petitioner states a conclusion that the "invention also materially enhances the quality of the environment". The support provided in the petition for this conclusion appears to be the assertion that an "important object of the invention is to provide energy consulting services to customers in the field of distributed, non-polluting energy generation technologies". However, since the invention is indeed directed to energy consulting services, there are no material contributions to the restoration or maintenance of the environment. No advancements in air, water and/or soil restoration or maintenance technology

are presented. What is presented are techniques for marketing existing technology. Further, as evidenced by the claims, applicant has indicated that the scope of the invention includes methods that include no actual environmental benefit. See claims 45-46 for example which recite in relevant part merely calculating and reporting the availability and costs of energy-related products or services and encouraging the customer to contribute contact information of others in return for a commission. Also note claim 1 which ends with merely "arranging" the purchase and installation of energy systems. As a result, the invention itself does not materially contribute to the restoration or maintenance of life sustaining elements since it focuses on marketing the environmental contributions of others.

Alternately, considering this petition with respect to energy utilization and development, a grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section (VI), must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances etc. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above. No fee for such a petition is required.

The petition does not meet the requirements for special status in that there is no showing that the invention *materially contributes* to the discovery or development of energy resources or the more efficient utilization and conservation of energy resources. Again, the invention is directed to energy consulting services, and focuses on marketing the contributions of others. No advancements in the techniques for discovery or development of energy resources or the more efficient utilization and conservation of energy resources are presented, and as above, the scope of the claims do not necessarily include an actual energy benefit.

The petition is **DENIED**. Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement giving the information as outlined above. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

UNITED STATES PATENT AND TRADEMARK OFFICE

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OTHO B. ROSS
c/o LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of :
Daniel S. Gluck, et al. :
Application No. 09/965,597 : DECISION ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. GLU-01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 1, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 2, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3639 for appropriate action by the Examiner in the normal course of business on the reply received April 13, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

OIPE
JUN 26 2008
PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 701586-053451 ***PATENT***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

CERTIFICATE OF MAILING (37 C.F.R. §1.8 (a))

I hereby certify that this correspondence:

1. Certificate of Mailing;
2. Petition For Correction of Inventorship in Patent Under 37 C.F.R. § 1.324 (a);
3. Statement of Robert Austin;
4. Statement of Mark W. Bitensky;
5. Statement of Tatsuro Yoshida;
6. Statement of Michael G. Frank;
7. Statement of Christopher V. Gabel;
8. Statement of Jure Derganc;
9. Statement of Assignee on Behalf of the assignee the Trustees of Boston University;
10. Statement of Assignee on Behalf of the assignee the Trustees of Princeton University;
11. Copy of the assignment from Robert Austin to the Trustees of Princeton University;
12. A check in the amount of $130.00 to cover the fee set forth in 37 C.F.R. § 1.20(b); and
13. Return Receipt Postcard.

is on the date shown below being:

MAILING

X deposited with the United States Postal Service 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

FACSIMILE

transmitted by facsimile to the Patent and Trademark Office at (571) 273-8300.

Signature

Date: June 24, 2008

Megan L. Stembridge
(*type or print name of person certifying*)

OIPE
JUN 26 2008
PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 701586-053451 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Transmitted herewith in the above-identified issued patent are:

1. Certificate of Mailing;
2. Petition For Correction of Inventorship in Patent Under 37 C.F.R. § 1.324 (a);
3. Statement of Robert Austin;
4. Statement of Mark W. Bitensky;
5. Statement of Tatsuro Yoshida;
6. Statement of Michael G. Frank;
7. Statement of Christopher V. Gabel;
8. Statement of Jure Derganc;
9. Statement of Assignee on Behalf of the assignee the Trustees of Boston University;
10. Statement of Assignee on Behalf of the assignee the Trustees of Princeton University;
11. Copy of the assignment from Robert Austin to the Trustees of Princeton University;
12. A check in the amount of $130.00 to cover the fee set forth in 37 C.F.R. § 1.20(b); and
13. Return Receipt Postcard.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-0850.

Date: June 24, 2008

Respectfully submitted,

Customer No.: 50607

Ronald I. Eisenstein (Reg. No. 30,628)
Leena H. Karttunen (Reg. No. 60,335)
Nixon Peabody LLP
(617) 345-6054 / 1367

OIPE IAP67 JUN 26 2008 PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 701586-053451 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

PETITION FOR CORRECTION OF INVENTORSHIP IN PATENT UNDER 37 C.F.R. § 1.324(a)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.324(a), patentees hereby petition for the addition of Robert Austin as co-inventor of the above-identified patent. At the time of filing the above-identified application, Robert Austin was through an error omitted as an inventor. As set forth in the attached Statement under 37 C.F.R. 1.324(b)(1) of Robert Austin, such error arose without deceptive intent on the part of Robert Austin.

This petition is accompanied by a statement from the current named inventors under 37 C.F.R. 1.324(b)(2) of inventors Mark W. Bitensky, Tatsuro Yoshida, Michael G. Frank, Christopher V. Gabel, and Jure Derganc, the Statement under 37 C.F.R. 1.324(b)(4) from the assignees of Trustees of Boston University and Trustees of Princeton University, to the correction of inventorship, and the requisite fee under 37 C.F.R. 1.324(b)(3) of $130.00 as set forth in 37 C.F.R. § 1.20(b). The Commissioner is herewith authorized to charge any additional fees associated with this Petition to deposit account 50-0850.

Date: June 24, 2008

Respectfully submitted,

Customer No.: 50607

Ronald I. Eisenstein (Reg. No. 30,628)
Leena H. Karttunen (Reg. No. 60,335)
Nixon Peabody LLP
(617) 345-6054 / 1367

~~06/27/2008 WASFAW1 00000036 7208120~~
~~01 FC:1464 130.00 OP~~

06/30/2008 WASFAW1 00000027 09965644
01 FC:1464 130.00 OP

OIPE
JUN 26 2008
PATENT & TRADEMARK OFFICE
IAP67

Practitioner's Docket No. 701586-053451 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

STATEMENT UNDER 37 C.F.R. 1.324(b)(1) OF ROBERT AUSTIN

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, ROBERT AUSTIN, hereby submit this statement in support of patentees' Petition for Correction of Inventorship in Patent Under 37 C.F.R. § 1.324(a). At the time of filing the above-identified patent application, I was erroneously omitted as an inventor. This error arose without deceptive intent on my part.

Date: March 24 2008

ROBERT AUSTIN

OIPE IAP67 JUN 26 2008 PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 701586-053451 ***PATENT***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

STATEMENT UNDER 37 C.F.R. 1.324(b)(2) OF MARK W. BITENSKY

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, MARK W. BITENSKY, hereby submit this statement in support of patentees' Petition for Correction of Inventorship in Patent Under 37 C.F.R. § 1.324(a) and state that I have no disagreement with the requested correction of inventorship, as set forth in this petition, adding Robert Austin as co-inventor.

Date: 04/22/08

Mark Bitensky
MARK W. BITENSKY

OIPE
JUN 26 2008
PATENT & TRADEMARK OFFICE
IAP67

Practitioner's Docket No. 701586-053451 ***PATENT***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

STATEMENT UNDER 37 C.F.R. 1.324(b)(2) OF TATSURO YOSHIDA

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, TATSURO YOSHIDA, hereby submit this statement in support of patentees' Petition for Correction of Inventorship in Patent Under 37 C.F.R. § 1.324(a) and state that I have no disagreement with the requested correction of inventorship, as set forth in this petition, adding Robert Austin as co-inventor.

Date: 4/22/08

TATSURO YOSHIDA

10945952.1

OIPE
JUN 26 2008
PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 701586-053451 ***PATENT***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

STATEMENT UNDER 37 C.F.R. 1.324(b)(2) OF MICHAEL G. FRANK

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, MICHAEL G. FRANK, hereby submit this statement in support of patentees' Petition for Correction of Inventorship in Patent Under 37 C.F.R. § 1.324(a) and state that I have no disagreement with the requested correction of inventorship, as set forth in this petition, adding Robert Austin as co-inventor.

Date: 5/19/2008

MICHAEL G. FRANK

OIPE
JUN 26 2008
PATENT & TRADEMARK OFFICE
IAP67

Practitioner's Docket No. 701586-053451 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS. METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

STATEMENT UNDER 37 C.F.R. 1.324(b)(2) OF JURE DERGANC

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, JURE DERGANC, hereby submit this statement in support of patentees' Petition for Correction of Inventorship in Patent Under 37 C.F.R. § 1.324(a) and state that I have no disagreement with the requested correction of inventorship, as set forth in this petition, adding Robert Austin as co-inventor.

Date: 08 MAY 2008

J. Derganc

JURE DERGANC

10946780.1

OIPE
JUN 26 2008
PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 701586-053451 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

STATEMENT UNDER 37 C.F.R. 1.324(b)(2) OF CHRISTOPHER V. GABEL

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, CHRISTOPHER V. GABEL, hereby submit this statement in support of patentees' Petition for Correction of Inventorship in Patent Under 37 C.F.R. § 1.324(a) and state that I have no disagreement with the requested correction of inventorship, as set forth in this petition, adding Robert Austin as co-inventor.

Date: 6/13/08

Christopher V. Gabel
CHRISTOPHER V. GABEL

ASSIGNMENT

WHEREAS, I, Robert Austin, a United States citizen, residing at 135 Harris Road, Princeton, New Jersey 08540, have invented certain new and useful improvements in Cellular Diagnostic Arrays, Methods of Using and Processes for Producing Same, for which I have executed an application for Letters Patent in the United States, filed as U.S. Serial Number 09/965,644, on September 27, 2001;

AND WHEREAS, Trustees of Princeton University, with its principal place of business at Princeton University, 4 New South Building, Princeton, New Jersey 08544, desires to acquire the entire right, title and interest in and to the said improvements and the said Application:

NOW, THEREFORE, for good and valuable consideration, including salary or payment for the making of inventions, or employee benefits, the receipt of which is hereby acknowledged, I, the said inventors, do hereby acknowledge that I have sold, assigned, transferred and set over, and by these present do hereby sell, assign, transfer and set over, unto the said Trustees of Princeton University, its successors, legal representatives and assigns, the entire right, title and interest throughout the world in, to and under the said improvements, and the said application and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and I hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue Patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said Trustees of Princeton University, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND I HEREBY covenant and agree that I will communicate to the said Trustees of Princeton University, its successors, legal representatives and assigns, any facts known to me respecting said improvements and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said Trustees of Princeton University, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

The undersigned hereby grant(s) the law firm of Nixon Peabody LLP of 100 Summer Street, Boston, Massachusetts 02110, U.S.A. the power to insert on this Assignment any further identification which may be necessary or desirable in order to comply with the rules of the U.S. Patent and Trademark Office for recordation of this document.

IN WITNESS WHEREOF, I, Robert Austin, hereunto set my hand and seal this 24th day of MARCH, 2008.

Robert Austin

STATE OF NEW JERSEY
COUNTY OF MERCER SS:

This 24th day of MARCH, 2008, before me personally came the above-named Robert Austin, to me personally known as the individual who executed the same of his/her own free will for the purposes therein set forth.

Notary Public

DIANE G. TITUS
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires November 27, 2012

OIPE
JUN 26 2008
PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 701586-053451 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

STATEMENT UNDER 37 C.F.R. 1.324(b)(3) OF MARTIN J. HOWARD ON BEHALF OF TRUSTEES OF BOSTON UNIVERSITY

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

1. I, Martin J. Howard, am Treasurer of the Trustees of Boston University located at One Sherborn Street, Boston, Massachusetts 02215 and have the authority to act on behalf of the Trustees of Boston University.

2. The assignment from inventors Mark W. Bitensky, Tatsuro Yoshida, Michael G. Frank, Christopher V. Gabel, and Jure Derganc to the Trustees of Boston University was recorded on April 15, 2003 at Reel/Frame 013958/0941.

3. The Trustees of Boston University, as an assignee, agrees to the requested correction of inventorship as set forth in the accompanying Petition for Correction of Inventorship in Patent under 37 C.F.R. § 1.324(a).

4. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: APRIL 22, 2008

Martin J. Howard, Treasurer
Trustees of Boston University

OIPE IAP67
JUN 26 2008
PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 701586-053451 *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	Bitensky et al.		
Patent No.:	7,208,120	Art Unit:	1637
Date of Patent:	April 24, 2007	Examiner:	STRZELECKA, Teresa E
Application No.:	09/965,644		
Filing Date:	September 27, 2001		
Confirmation No.:	3052		
For:	CELLULAR DIAGNOSTIC ARRAYS, METHODS OF USING AND PROCESSES FOR PRODUCING SAME		

STATEMENT UNDER 37 C.F.R. 1.324(b)(3) OF ASSIGNEE ON BEHALF OF THE TRUSTEES OF PRINCETON UNIVERSITY

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

1. I, John Ritter, am a Director of the Office of Intellectual Property at Princeton University and I have the authority to act on behalf of the Trustees of Princeton University located at Princeton University, 4 New South Building, Princeton, NJ 08544-0036.

2. The assignment from inventor Robert Austin to Trustees of Princeton University is attached herewith.

3. The Trustees of Princeton University, as an assignee, agrees to the requested correction of inventorship as set forth in the accompanying Petition for Correction of Inventorship in Patent under 37 C.F.R. § 1.324(a).

4. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: March 24, 2008

John Ritter
Director of the Office of Intellectual Property at Princeton University for the Trustees of Princeton University

UNITED STATES 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: February 14, 2008
TO: Certificates of Correction Branch
FROM: Gary Benzion, SPE
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. US 7,208,120 as specified on the attached Certificate.

Gary Benzion
Supervisory Patent Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. US 7,208,120
Patented: April 24, 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Mark W. Bitensky
Tatsuro Yoshida
Michael G. Frank
Christopher V. Gabel
Jure Derganc
Robert Austin

Gary Benzion
Supervisory Patent Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RONALD I. EISENSTEIN
LEENA H. KARTTUNEN
100 SUMMER STREET
NIXON PEABODY, LLP
BOSTON, MA 02110

JUL 16 2008

In re Patent No. 7,208,120 BITENSKY, MARK et al
Issue Date: April 24, 2007
Appl No.: 09/965,644
Filed: September 17, 2001
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed June 26, 2008, to correct inventorship under 37 CFR 1.324. The petition has complied with all the requirements 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.

Gary Benzion
Supervisory Patent Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 5

FISH & RICHARDSON P.C.
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

JUL 22 2003

OFFICE OF PETITIONS

In re Application of :
Sanjay Nigam :
Application No. 09/965,651 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. SD 2001-041 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2003 (original copy) and July 1, 2003 (faxed copy), 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 November 1, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 2, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www. uspto. gov

FOLEY HOAG LLP
PATENT GROUP
155 SEAPORT BOULEVARD
BOSTON, MA 02110

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DEC 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Aled Edwards et al :
Application No. 09/965,654 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. IPT-002.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed March 22, 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 23, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The matter is being forwarded to Technology Center AU 1631 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAY 31 2005

TOWNSEND AND TOWNSEND AND
CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of
Mark Thompson
Application No. 09/965,667
Filed: September 26, 2001
For: SYSTEMS AND METHODS TO FACILITATE PAYMENT FOR SHIPPED GOODS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on January 6, 2005, under 37 CFR 1.181.

The petition is **DISMISSED**.

A review of the file record reveals that the application is currently considered by the office to be abandoned. However, no Notice of Abandonment has been mailed. An appeal brief was filed July 7, 2004, but not entered due to a Notice of Appeal not being filed.

The petition indicates that a Notice of Appeal was filed on May 7, 2004. In support thereof, the petitioner includes a copy of the non-received postcard receipt and a statement under 37 CFR 1.8(b)(3) by Nina L. McNeill attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) by the person who signed the certificate attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (2) above, the petition fails under requirement (1) to provide a copy of the original response bearing a signed Certificate of Mailing which includes the date of signing.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/jwk: 5/24/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Mark Thompson :
Application No. 09/965,667 : ON PETITION
Filed: September 26, 2001 :
Attorney Docket No. 020375-003500US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 10, 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 March 16, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed April 13, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 11, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3624.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

NOV 28 2006

Technology Center 2100

David D. Brush
WESTMAN, CHAMPLIN & KELLY, P.A.
Suite 1400 – International Centre
900 Second Avenue South
Minneapolis, Minnesota 55402-3319

In re Application of:
Nicolas BOUTHORS et al.
Application No. 09/965,674
Filed: September 27, 2001
For: TERMINAL-BASED METHOD FOR OPTIMIZING DATA LOOKUP

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181

This is a decision on the petition, filed on 17 June 2005, under 37 CFR §1.181 to withdraw holding of abandonment of the above-identified application.

This application was held abandoned for failure to timely file a reply to the Office Action mailed on 25 August 2004. A Notice of Abandonment was mailed on 03 June 2005.

In support of the petition, petitioner asserts that the Office Action mailed 25 August 2004 was not received. Petitioner supplies (1) a statement that a search of the corresponding file and the docket record could not find evidence that the Office Action was not received; and (2) a copy of the docket record and mail log where the Office Action would have been entered had it been received and docketed by attorneys of record in the application.

The provided copy of the docket record and mail log shows no entry indicating receipt of the Office Action mailed on 25 August 2004.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Office Action mailed 25 August 2004.

For the above, the petition is **GRANTED**. The abandonment is **WITHDRAWN**.

The Office Action has been remailed and attached herewith.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Molter et al.	:	
Application No. 09/965,679	:	DECISION GRANTING PETITION
Filed: September 27, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PES-0040	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/413,782, filed October 7, 1999, set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 1746 for appropriate action on the amendment filed February 25, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

RheoGene Holding Inc
2650 Eisenhower Avenue
Norristown, PA 19403

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OFFICE OF PETITIONS

In re Application of :
Palli, et al. : DECISION ON PETITION
Application No. 09/965,703 :
Filed: September 26, 2001 :
Docket No.: A01020B :

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 24, 2006 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed February 23, 2006. The Notice set a three month statutory period for reply. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the 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
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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OFFICE OF PETITIONS

In re Application of	:	
Flurry et al.	:	
Application No. 09/965,736	:	ON PETITION
Filed: September 27, 2001	:	
Attorney Docket No. AUS920010271US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The person signing the instant petition requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

EL834341252US
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	O'Brien, Timothy J. et al.
Serial No.	:	Unassigned
Filing Date	:	September 27, 2001
For	:	**REPEAT SEQUENCES OF THE CA125 GENE AND THEIR USE FOR DIAGNOSTIC AND THERAPEUTIC INTERVENTIONS**
Group Art Unit	:	Unassigned
Examiner	:	Unassigned

JC821 U.S. PTO
09/965738
09/27/01

Assistant Commissioner for Patents
Attn: Box Patent Application
Washington, DC 20231

PETITION TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION OF APPLICATION RELATING TO THE DIAGNOSIS AND TREATMENT OF OVARIAN CANCER (37 CFR §1.102(d))

Applicants submit this petition to make special and respectfully request advancement of examination out of turn of the above-referenced patent application. In accordance with 37 CFR § 1.17(i), a check for the petition fee is enclosed in the amount of $130.00.

The significance of developing new diagnostics and treatments for ovarian cancer cannot be underestimated. Ovarian cancer is a serious and under-recognized threat to women's health. Ovarian cancer kills more women than all the other gynecologic cancers combined. Ovarian cancer is the fifth leading cause of cancer death among women in the United States. Ovarian cancer occurs in 1 in 57 women, up from 1 in 70 several years ago. 14,500 women will die this year alone. More than 25,500 will be diagnosed.

Ovarian cancer is very treatable when caught early; however, the vast majority of cases are not diagnosed until too late. Only 24% of ovarian cancer is caught early primarily because ovarian cancer is difficult to diagnose. Currently, there is no reliable screening test for the early detection of ovarian cancer. Further, symptoms of this disease are often vague and easily confused with other diseases.

CA125, which is the focus of the present patent application, is an antigenic determinant located on the surface of ovarian carcinoma cells with essentially no expression in normal adult ovarian tissue. Elevated in the sera of patients with ovarian adenocarcinoma, CA125 has played a

10/02/2001 HDAHTE1 00000032 09965738
04 FC:122 130.00 OP

critical role for more than 15 years in the management of these patients relative to their response to therapy and also as an indicator of recurrent disease.

CA125 has long presented problems to both clinicians and investigators because there was no definitive information on its structure and function. The present patent application seeks to overcome these problems by providing an extensive disclosure on the cloning, sequencing, and identification of the various domains of the CA125 gene. Such cloning of CA125 has not heretofore been accomplished. The present invention overcomes the disadvantages of current assays by providing multiple repeat domains of CA125 with epitope binding sites. At least one or more of any of the more than 60 repeats which have been identified can be used as a "gold standard" for testing the presence of CA125. Furthermore, new and more specific assays may be developed utilizing recombinant products for antibody production. Perhaps even more significantly, the multiple repeat domains of CA125 or other domains could also be used for the development of a potential vaccine for patients with ovarian cancer.

The recombinant CA125 of the present invention may also be used to develop therapeutic targets. Molecules like CA125, which are expressed on the surface of tumor cells, provide potential targets for immune stimulation, drug delivery, biological modifier delivery or any agent which can be specifically delivered to ultimately kill the tumor cells. Humanized or human antibodies to CA125 epitopes could be used to deliver all drug or toxic agents including radioactive agents to mediate direct killing of tumor cells. Natural ligands having a natural binding affinity for domains on the CA125 molecule could also be utilized to deliver therapeutic agents to tumor cells.

In view of the significant attributes of the present invention relating to the diagnosis and treatment of ovarian cancer, Applicants respectfully request that their petition to advance examination of the patent application be granted. Should the Examiner find that the petition requires additional information and/or supplementation, Applicants request that the undersigned Counsel be contacted as soon as possible at the telephone number listed below.

Date: September 27, 2001

By: Pat Winston Kennedy
Pat Winston Kennedy
Registration No. 36,970

EL834341252US

Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101
Direct Phone: (336) 607-7336
Facsimile: (336) 607-7500

Attorney Docket No. 40715-260477
40715-260477
WINLIB01:888674.1

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

MAR 12 2002

PAT WINSTON KENNEDY, ESQ.
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

#6

In re Application of :
Timothy J. O'Brien et al :
Serial No.: 09/965,738 : PETITION TO MAKE SPECIAL
Filed: September 27, 2001 :
Attorney Docket No.: EL834341252 :

This is in response to applicants' petition filed September 27, 2001, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	09965740	Confirmation Number	4440	Filing Date	2001-09-28
Attorney Docket Number (optional)	QMT1.1-CIP-US	Art Unit	3761	Examiner	Catharine L Anderson
First Named Inventor	Christopher D. Batich				
Title of Invention	Absorbent Materials With Covalently-Bonded, Nonleachable, Polymeric Antimicrobial Surfaces, And Methods For Preparation				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Christopher	D.	Batich	

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 format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/.m.p.m./	Date (YYYY-MM-DD)	2009-08-06
Name	M.P. Moon	Registration Number	53844

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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 Fr eedom 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 indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of
Christopher D. Batich

Application No. 09965740

Filed: September 28,2001

Attorney Docket No. QMT1.1-CIP-US

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 06-AUG-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

SPE. Y. Gupta

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/965,744

Paper No.: _____

DATE : 4/25/05

TO SPE OF : ART UNIT 1751

SUBJECT : Request for Certificate of Correction on Patent No.: 6812194

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.

Lamonte Newsome

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:

NECHOLUS OGDEN
PRIMARY EXAMINER

SPE — 1751 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

VIDAS ARRETT & STEINKRAUS P.A.
SUITE 2000
6109 BLUE CIRCLE DRIVE
MINNETONKA, MN 55343-9185

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JUN 1 1 2002

OFFICE OF PETITIONS

In re Application of
Dachuan Yang et al
Application No. 09/965,765
Filed: September 28, 2001
Attorney Docket No. S63.2-10002

DECISION GRANTING
PETITION

This is a decision on the paper styled "PETITION UNDER CFR 1.52 TO REQUEST FOR CORRECTION OF FILING RECEIPT" filed March 11, 2002, which is properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of September 28, 2001, rather than the presently accorded filing date of October 1, 2001.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on September 28, 2001. The petition is accompanied by, inter alia, a copy of the USPS Track/Confirm system information showing that the package bearing Express Mail label No. EL684695323US was accepted on September 28, 2001. The same Express Mail receipt number was referred to in the copy of the original transmittal letter found in the present application.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on September 28, 2001.

The petition is granted.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division for correction of the filing date to September 28, 2001.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WILLIAM H. DIPPERT
REED SMITH LLP
599 LEXINGTON AVENUE
29TH FLOOR
NEW YORK, NY 10022-7650

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JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Ronald J. Solar et al	:	
Application No. 09/965,770	:	ON PETITION
Filed: September 28, 2001	:	
Attorney Docket No. 20098.07	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 19, 2003. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on June 20, 2004. See MPEP 1215.04.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 3731 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

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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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Terence P. O'Brien
Wilson Sporting Goods Co.
8700 W. Bryn Mawr Avenue
Chicago, IL 60631

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Danny D. Lowe, et al. :
Application No. 09/965,775 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. 01-313-US-D :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

#14 DW

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 31 2005

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JAN 31 2005

OFFICE OF THE DIRECTOR
TC 3600

Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of :
Harald Beck, et al. :
Application No. 09/965,776 :
Filed: September 27, 2001 :
For: METHOD AND DEVICE FOR CONTROLLING A WHEEL BRAKE OF A MOTOR VEHICLE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on October 28, 2004, under 37 CFR 1.181.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed on October 19, 2004 because of applicants' failure to properly respond to the Office action (Final Rejection), mailed October 10, 2003, that set a three-month shortened statutory period for response.

The petition indicates that an Appeal Brief and a request for a one-month extension of time were filed by mail on May 11, 2004. In support thereof, petitioner submits copies of a response (Appeal Brief), and a request for a one-month extension of time extending the period for response to May 12, 2004. Both the Appeal Brief and the request for extension of time include Certificates of Mailing signed by Michelle Carnaiux, and dated May 11, 2004. Petitioner further includes a copy of a postcard receipt dated May 13, 2004. Since the postcard receipt has a date stamp outside the period for reply, applicants cannot rely on the postcard receipt, and must rely on the Certificates of Mailing dated May 11, 2004, to show that the response was timely filed.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) by the person who signed the certificate attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate, in this instance Michelle Carnaiux.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/rwg: 1/24/05

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 20 2005

Kenyon and Kenyon
One Broadway
New York, NY 10004

In re Application of :
Harald Beck et al. : **DECISION ON PETITION**
Application No. 09/965,776 : **TO WITHDRAW THE**
Filed: September 27, 2001 : **HOLDING OF ABANDONMENT**
For: METHOD AND DEVICE FOR CONTROLLING
A WHEEL BRAKE OF A VEHICLE

This is in reply to applicants' renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 received in the United States Patent and Trademark Office on February 15, 2005.

The petition is **GRANTED**.

A review of the file record indicates that a Notice of Abandonment was mailed October 19, 2004 because of applicants' failure to respond to the Office action (Final Rejection), mailed October 10, 2003, that set a three-month shortened statutory period for response.

A petition to withdraw holding of abandonment was filed on October 28, 2004. That petition was dismissed in a decision mailed January 31, 2005 wherein it was held that the petition lacked a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing the response on the date indicated on the certificate, by the person who signed the certificate.

The renewed petition includes a statement by Michelle Carniaux which attests to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, and then to the Examiner for prompt action on the merits of the application.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/dgd: 10/19/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANTOR COLBURN
55 GIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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JAN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Royce D. Jordan, Jr. :
Application No. 09/965,783 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 010554 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 6, 2005 requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on June 22, 2005, with the issue fee being due on or before September 22, 2005. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of June 22, 2005, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The $130 fee submitted for the petition under 37 CFR 1.313(c)(2) will be refunded to petitioner's deposit account.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2155 for appropriate processing of the RCE filed July 6, 2005.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 1-4-06 | 2 Serial/Patent # 09/965783

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition		7-6-05	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [✓] Credit Deposit A/C #:

9 0 6 -- 1 1 3 0

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [ ] No Fee Due (Explanation):

Petition dismissed as moot.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy TITLE: Pet Exmr.

SIGNATURE: Karen Creasy PHONE: 2-3208

OFFICE: DAC for Patents

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Doug K. DATE: 1/5/06

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:

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

OIPE JC66 JUL 06 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Royce D. Jordan , Jr.	)	
		)	
SERIAL NO.:	09/965,783	)	ART UNIT:
		)	2155
FILED:	September 28, 2001	)	
		)	EXAMINER:
FOR:	TEXT MESSAGE DELIVERY FEATURES FOR AN INTERACTIVE WIRELESS NETWORK	)	Nawaz

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:
Commissioner for Patents,
Alexandria, VA 22313 on June 30, 2005
Sheila Smedick
name
signature 6-30-05
date

Mail Stop Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW FROM ISSUE UNDER 37 CFR § 1.313(c)

Applicant hereby petitions under 37 CFR §1.313 (c)(2) to withdraw the application from issue. Applicant also submits herewith a Request for Continued Examination under 37 CFR § 1.114 and an Information Disclosure Statement.

07/08/2005 CCHAU1 00000073 09965783
02 FC:1464 130.00 DA

Adjustment date: 01/05/2006 CKHLOK
07/08/2005 CCHAU1 00000073 061130 09965783
02 FC:1464 130.00 CR

00159
BLL-0285

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Please charge the petition fee of $130.00, and any other necessary fee, to Deposit Account No. 06-1130.

Respectfully submitted,

By: _____

David A. Fox
Registration No. 38,807
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002
Telephone: (860) 286-2929
Facsimile: (860) 286-0115
PTO Customer No. 36192

Date: June 30, 2005

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APR - 5 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
David M. Goldenberg	:	
Serial No.: 09/965,796	:	WITHDRAWAL OF ATTORNEY
Filed: October 1, 2001	:	
Attorney Docket No.: 018733-1060	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

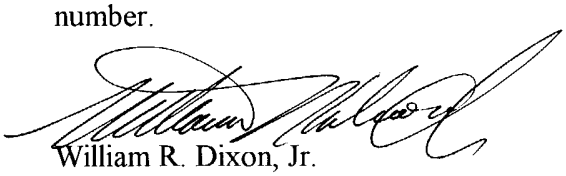
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

OIPE JC34
FEB 26 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 018733-1060

In re Application of:

Serial No.: 09/965796

Examiner: Unassigned

RECEIVED
MAR - 1 2004
GROUP 3600

Filing Date: 10/01/2001
Or
U.S. Patent No.:

Grant Dated:

Art Unit: 3682

For: IMMUNOTHERAPY OF B-CELL MALIGNANCIES USING ANTI-CD22 ANTIBODIES

WITHDRAWAL AS ATTORNEY OF RECORD and CHANGE OF CORRESPONDENCE ADDRESS

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 223135-1450

Sir:

Effective immediately, Foley & Lardner attorneys associated with CUSTOMER NUMBER: 22428, withdraw as Attorney of Record for the captioned application.

The undersigned is signing this withdrawal from on behalf of himself and all the aforementioned attorneys.

DENIED

All further correspondence should be sent to:

Heller Ehrman & McAuliffe
1666 K Street Northwest, Suite 300
Washington, DC 20006.

Respectfully submitted,

Date: 2/26/04

Stephen B. Maebius, Registration No. 35,264

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MIOIN ZINN
MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

COPY MAILED

FEB 27 2004

OFFICE OF PETITIONS

In re Application of :
Akira Miyake et al :
Application No. 09/965,830 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No. Q66067

This is a decision on the petition, filed February 26, 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 15, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to the Publishing Division for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

CHIEF PATENT COUNSEL
UNITED STATES SURGICAL,
A DIVISION OF TYCO HEALTHCARE GROUP LP
150 GLOVER AVENUE
NORWALK CT 06856

COPY MAILED

MAR 11 2004

OFFICE OF PETITIONS

In re Application of :
Mark Roby :
Application No. 09/965,872 : ON PETITION
Filed: 28 September, 2001 :
Attorney Dcket No. 11396 (203-3054) :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 19 February, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 18 January, 2002, for failure to timely file an executed oath or declaration and a surcharge for its late filing as required by the Notice to File Missing Parts of Nonprovisional Application mailed on 17

---

[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)).

November, 2001, which set a two month shortened period for reply. Notice of Abandonment was mailed on 17 November, 2003.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

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

DAVID B. COCHRAN, ESQ.
JONES, DAY, REAVIS & POGUE
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

COPY MAILED
APR 11 2006
OFFICE OF PETITIONS

In re Application of :
Dieter Schulz et al :
Application No. 09/965,881 : DECISION GRANTING PETITION
Filed: September 28, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 481340010039 :

This is a decision on the petition, filed April 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 9, 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\313\965881

[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

MAILED

APR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

In re Application of
Richard G. Rebh

Application No. 09/965,962
Filed: September 28, 2001
For: METHODS AND SYSTEMS OF CONVEYING INFORMATION WITYH AN ELECTROLUNMINESCENT DISPLAY

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent filed on September 8, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 34132 are withdrawn.

All future communications from the Office will to 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

cc : WOODCOCK WASHBURN LLP
One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

In re Application of :
Richard G. Rebh :
Application No. 09/965,963 :DECISION ON REQUEST TO
Filed: September 28, 2001 :WITHDRAW AS ATTORNEY
For: METHODS AND SYSTEMS OF :
INTERACTIVE ADVERTISING :

This is a decision on the request to withdraw as attorney/agent of record filed on September 8, 2004.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorney requesting withdraw is not of record due to a Revocation of Power of Attorney executed by the inventor on June 24, 2004.

Further communications will continue to be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. It should be noted that the address provided above is the address associated with the customer number provided by the inventor.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

cc: COZEN O'CONNOR
1900 MARKET STREET
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER
Sheridan Snedden

ART UNIT	PAPER
1653	

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents

The decision on the petition for Color Drawings filed 12 Apr 2005 in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 USC 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 USC 151),

Petition Granted _____

☒ Petition Granted _____ JON WEBER SUPERVISORY PATENT EXAMINER

☐ Petition Denied _____

☐ Petition Dismissed _____

By Direction of the Deputy Assistant Director of Patents

_____

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 15

Tucker, Ellis & West, LLP
1150 Huntington Building
925 Euclid Avenue
Cleveland, OH 44115-1475

COPY MAILED
NOV 24 2003
OFFICE OF PETITIONS

In re Application of
Diane Smith
Application No. 09/965,981
Filed: September 28, 2001
Attorney Docket No. 47117/14489

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 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 in a timely manner to the final Office action mailed January 2, 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 2, 2003.

In response to the final Office action, petitioner submitted with the instant petition $1,300 for the petition to revive fee, a Request for Continued Examination (RCE) under 37 CFR 1.114, $750 for the RCE filing fee, and an amendment.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application is being forwarded to Technology Center 3600, for processing the Request for Continued Examination under 37 CFR 1.114.

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

Paper No. 13

MORGAN LEWIS & BOCKIUS
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

COPY MAILED

SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Joseph G. Radzik :
Application No. 09/965,983 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 052250-5019 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2003, 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 within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 31, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 1, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 3679.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE – 46TH FLOOR
PHILADELPHIA, PA 19103

COPY MAILED

MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of :
E-Lee Chang et al :
Application No. 09/965,984 : DECISION ON PETITION
Filed: September 28, 2001 : TO WITHDRAW
Attorney Docket No. BELL-0128/01181 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jonathan M. Waldman and others has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272- 3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Lee & Hayes, PLLC
421 W. Riverside Ave.
Suite 500
Spokane, WA 99201

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Honeywell International Inc.
101 Columbia Road
P. O. Box 2245
Morristown, NJ 07962-2245

COPY MAILED
MAY 13 2004
OFFICE OF PETITIONS

In re Application of :
Byron G. Scott, et al. :
Application No. 09/965,987 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. H0001705 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2004, to revive the above-identified application.

The petition is **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).

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 August 29, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) under 37 CFR 1.114 and requisite submission, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the

amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), an RCE, or the filing of a continuing application. An Advisory Action is attached herewith.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Honeywell International Inc.
101 Columbia Road
P. O. Box 2245
Morristown, NJ 07962-2245

COPY MAILED

JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Byron G. Scott, et al. :
Application No. 09/965,987 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. H0001705 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 2800 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LESLIE A. VAN LEEUWEN
INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW DEPT., INTERNAL ZIP 4054
11400 BURNET ROAD
AUSTIN TX 78758

COPY MAILED

AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Arnold Jeffrey Daks et al. :
Application No. 09/966,004 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No.: AUS9-2001-0767-US1 :

This is a decision on the petition filed July 28, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed December 15, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned March16, 2007. Accordingly, a Notice of Abandonment was mailed on July 2, 2007.

This matter is being referred to Technology Center 2192 for appropriate action on the amendment filed July 28, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

J. B. Kraft
710 Colorado St. #5e
Austin TX 78701

COPY MAILED

JAN 0 9 2008

OFFICE OF PETITIONS

In re Application of :
KUMHYR et al. :
Application No. 09/966,005 : DECISION ON PETITION
Filed: 09/28/2001 :
Attorney Docket No. AUS9-2001-0766-US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 7, 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 July 8, 2007. The Office mailed a Notice of Abandonment on July 31, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

This application is being referred to Technology Center AU 2195 for appropriate action by the Examiner in the normal course of business on the reply received

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070813

DATE : August 13, 2007

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction on Patent No.: 6,954,773

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

DAVID H. MALZAHN
PRIMARY EXAMINER

MENG-AI T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE: Meng-ai An **Art Unit** 2193

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG 3 2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of:
Eric C. Hannah
Serial No.: 09/966,024
Filed: September 28, 2001
Attorney Docket No.: 42390.P11816

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR § 1.181(a) filed on July 15, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed September 30, 2003.

A review of the file history shows that the examiner mailed an Office action to applicant on September 30, 2003, setting a one-month statutory time period for reply. On April 19, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that a timely response to the Office action was filed on October 22, 2003, as evidenced by the Certificate of Mailing date of October 22, 2003; and received by the USPTO on October 27, 2003, as evidenced by the return receipt stamped postcard identifying the papers filed.

In view of this evidence, applicant is considered to have submitted a timely reply.

Applicant's petition is **GRANTED**. This application will be forwarded to the examiner for consideration of the Response of October 22, 2003.

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 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
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Paper No.

KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA PA 19103

COPY MAILED

MAR 18 2005

OFFICE OF PETITIONS

In re Application Of	:	
Fukashiro et al.	:	DECISION ON APPLICATION
Application No. 09/966,052	:	FOR
Filed: September 28, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. HITACHI-0025	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed July 14, 2004. Applicants requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from forty-eight (48) days to one hundred ninety-two (192) days.

The application for patent term adjustment is **DISMISSED.**

On June 4, 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 48 days. The instant application for patent term adjustment was timely filed[1]. Applicants submit that a reduction of 144 days, under 37 CFR § 1.704(c)(7), for failing to properly respond to a Notice of Non-Compliance is in error. Applicants submit that timely responses were made to the Notice of Non-Compliance, however, the United States Patent and Trademark Office wrongly continued to issue Notices of Non-Compliance. Applicants contend that the Office erred in determining that their response after non-final received July 7, 2003 and their response to Notice of Non-compliant Amendment were Non-Compliant for failing to adhere to the new Amendment format.

[1] PALM records show that the Issue Fee payment was also received July 14, 2004.

Applicants submit that the Amendment of July 7, 2003 was compliant as it was not required to be in the new Amendment format, and that the Notice of Non-Compliance was in error. Further, applicants state that as the July 28, 2003 amendment was filed before July 30, 2003, it was also not required to be in the new Amendment format.

37 C.F.R. § 1.704(c)(7) provides that:

> Submission of a reply having an omission (§1.135(c))[2], in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

Petitioners' arguments have been considered. However, it has been determined that the reduction of 144 days is proper. The replies did have omissions. By Office action mailed October 29, 2003, the examiner made clear that the replies filed on July 7, 2003; July 10, 2003; and July 28, 2003 were not fully response to the Office action mailed April 4, 2003, because the "claimed subject matter is completely different." Specifically, the examiner explained that both sets of claims 1-7 were numbered the same; however, the claimed subject matter was completely different. On November 28, 2003, applicants submitted a new response, correcting the omission.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is forty-eight (48) days.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will forward the file to the Office of Patent Publication for issuance of the patent.

---

[2] §1.135(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Paper No.

KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA PA 19103

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NOV 2 3 2005

OFFICE OF PETITIONS

In re Application Of	: DECISION ON REQUEST FOR
Fukashiro et al.	: RECONSIDERATION OF
Application No. 09/966,052	: DECISION ON APPLICATION
Filed: September 28, 2001	: FOR
Atty Docket No. HITACHI-0025	: PATENT TERM ADJUSTMENT
	:

This is a decision on the "REQUEST FOR RECONSIDERATION ON DECISION FOR APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed April 8, 2005. Applicants requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from forty-eight (48) days to one hundred ninety-two (192) days.

The request for reconsideration of decision on application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred ninety-two (192) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 4, 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 48 days. The initial application for patent term adjustment was timely filed[1]. Applicants submit that a reduction of 144 days, under 37 CFR § 1.704(c)(7), for failing to properly respond to a Notice of Non-Compliance is in error. Applicants submit that timely responses were made to the Notice

[1] PALM records show that the Issue Fee payment was also received July 14, 2004.

of Non-Compliance, however, the United States Patent and Trademark Office wrongly continued to issue Notices of Non-Compliance. Applicants contend that the Office erred in determining that their response after non-final received July 7, 2003 and their response to Notice of Non-compliant Amendment were Non-Compliant for failing to adhere to the new Amendment format. Applicants submit that the Amendment of July 7, 2003 was compliant as it was not required to be in the new Amendment format, and that the Notice of Non-Compliance was in error. Further, applicants state that as the July 28, 2003 amendment was filed before July 30, 2003, it was also not required to be in the new Amendment format.

37 C.F.R. § 1.704(c)(7) provides that:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

Petitioners' arguments were considered, and determined to be persuasive to an extent. A review of the record revealed that: By Notice mailed July 22, 2003, applicants were was advised that the reply filed July 7, 2003 was an informal or non-responsive amendment. A review of the amendment finds the amendment was compliant with rule 1.121. Nonetheless, applicants responded with the filing of an amendment on July 28, 2003. A review of this amendment reveals that it was compliant with rule 1.121, then in effect. Thus, neither the amendment filed July 7, 2003 nor the amendment filed July 28, 2003 had any omissions, relative to satisfying rule 1.121.

However, the application for patent term adjustment filed July 14, 2004, was dismissed because it was concluded that the replies did have omissions. Specifically, by Office action mailed October 29, 2003, the examiner made clear that the replies filed on July 7, 2003; July 10, 2003; and July 28, 2003 were not fully response to the Office action mailed April 4, 2003, because the "claimed subject matter is completely different." Specifically, the examiner explained that both sets of claims 1-7 were numbered the same; however, the claimed subject matter was completely different. On November 28, 2003, applicants submitted a new response, correcting the omission.

On instant request for reconsideration, applicants continue to argue that the original notice of non-compliance was erroneously

issued. Applicants continue to maintain that the new Amendment format was not, in effect.

In response, it is preliminarily stated that the basis for dismissing the original application for patent term adjustment was not failure to comply with 1.121. As stated above, the omission relied on was the error in the claims cited by the examiner in the October 29, 2003 Office action. Based on the perceived correction of this error by filing of a response on November 28, 2003, the reduction of 144 days was sustained.

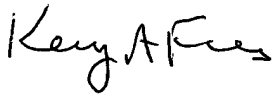
However, a further review of the record supports a conclusion that the error cited by the examiner was not correct. The record reveals that the examiner stated that the "claimed subject matter is completely different" because the amendment reviewed by the examiner was from a different application. Thus, the Notice of Non-compliance was mailed in error. Accordingly, it is concluded that the reductions totaling 144 days are unwarranted.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one hundred ninety-two (192) days.

No fee is required on instant request for reconsideration and none has been charged.

The Office will forward the file to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any patent term accrued for Office delay in issuing the patent after payment of the issue fee and meeting 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
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Updated PAIR Screen

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AUG 17 2004

TECHNOLOGY CENTER 2100

Brian Ledell
Harrity & Snyder, LLP
11240 Waples Mill Road
Suite 300
Fairfax, VA 22030

In re Application of: Gaudet	)	
Application No. 09/966,094	)	DECISION ON PETITION FOR
Attorney Docket No. 0023-0040	)	SUPERVISORY REVIEW REGARDING
Filed: 10/01/2001	)	FINALITY OF RESTRICTION
For: SCALEABLE GAP INSERTION IN A DATA LINK	)	REQUIREMENT UNDER 37 CFR §1.144

This is in response to the petition filed on June 23, 2004, under 37 CFR 1.144 requesting supervisory review of the finality of a restriction requirement mailed on March 8, 2004. Note, A petition under 37 CFR §1.144 will not be considered if reconsideration of the requirement was not requested (see §1.181).

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) A restriction requirement was mailed on December 22, 2003, in which claims 1-24 were subject to restriction and/or election requirement. The application was identified to contain the following patentably distinct species: Species 1 – Fig. 4; Species 2 – Fig. 5; and Species 3 – Fig. 3.

(2) On January 22, 2004 a response to the restriction requirement was filed in which applicant provisionally elected with traverse species I, drawn to claims 1-3, 5-8, 15-16 and 19-21. Applicant provided reasons in support of the traversal, including a discussion of M.P.E.P. 806.04(f) regarding a proper species restriction.

(3) On March 8, 2004, the Examiner issued a first office action on the merits, in response to Applicant's election of species I, wherein claims 1-3 and 5-8 were examined, claims 4 and 9-23 were withdrawn. This office action determined the requirement for restriction to be proper and therefore was made FINAL.

(4) On June 23, 2004, the instant petition was filed by Petitioner, under 37 CFR §1.144.

RELIEF REQUESTED

The instant petition under 37 CFR 1.144 requests the following relief:

(1) withdrawal (at least in part) of the election requirement of December 22, 2003 (made FINAL on March 8, 2004);

(2) as a result of item (1), examination of pending claims corresponding to Figs. 4 and 5.

ANALYSIS

Petitioner provides various arguments in support of the withdrawal of the election requirement including reference to M.P.E.P. §806.04(f), which states:

> Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species.

In addition, note M.P.E.P. §806.03 sets forth:

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

Petitioner states that Figures 4 and 5 (identified Species 1 and 2) are not mutually exclusive. A review of the instant application does in fact set forth that Figs. 4 and 5 are related. Fig. 4 is a block diagram illustrating the escape character insertion component (400) including a specific gap inserter (404). Fig. 5 is indicated to be an illustration of the specific gap inserter (note, 404 apparently mislabeled 402 in Fig. 5), see spec., para. 41 for support. In addition, Petitioner is correct in the analysis that the concept of "mutually exclusive" is not consistent with the concept of "combination and subcombination" as argued by the Examiner in the office action of March 8, 2004. See M.P.E.P. 806.03 - 806.05 for a discussion of election requirement of species versus restriction practice based on related inventions between combination and subcombination.

Thus, and in accordance with M.P.E.P. §806.03(f) and §806.04, the species election requirement of December 22, 2003 between Fig. 4 (Species 1) and Fig. 5 (Species 2) is deemed to be improper.

The petition is **GRANTED**. The previous action and election requirement is **withdrawn** and a new office action will be forthcoming.

The application is being forwarded to the Examiner for appropriate action i.e. prosecution of pending claims drawn to Figures 4 and 5, consistent with this decision.

Any inquiries related to this decision may be directed to the undersigned at (703) 308-0885.

8/9/04

Brian L. Johnson, SPRE
Technology Center 2100

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)
6532673	2003-03-18	09966107	2001-10-01	Q66054

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2007-06-15
Name	David J. Cushing	Registration Number	28703

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6532673
Issue Date: March 18,2003
Application No. 09966107
Filed: October 1,2001
Attorney Docket No. Q66054

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 15,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 15,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 08 2005

OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, CO 80527-2400

In re Application of :
Culp, et al. :
Application No. 09/966,122 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 10017934-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2004, 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 April 2, 2004. Accordingly, this application became abandoned on July 3, 2004.

The file is being forwarded to Technology Center 2100 for review of the Request for Continued Examination and amendment, filed November 3, 2004, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. **6,797,402**:

Issue Date: **September 28, 2004**:

Appl. No.: **09/966123** :

Filed: **September 28, 2001**:

DECISION

GRANTING

PETITION

For: **Correction of Inventorship** :

This is a decision on the petition filed **September 23, 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.

PATRICK JOSEPH RYAN

Supervisory Patent Examiner,

Art Unit **1795**

Technology Center **1700**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DATE: May 27, 2008
TO: Certificates of Correction Branch
FROM: patrick j. ryan
SPE, Art Unit 1795
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,797402 as specified on the attached Certificate.

Patrick J. Ryan SPE
Art Unit 1795

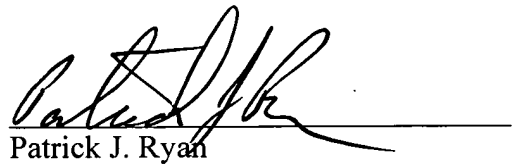
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6797402
Patented: September 28, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Colin Chin-Ho Chen
Frank W. Popielas
Calin Matias
Stefan C. Viorel



Patrick J. Ryan
Supervisory Patent Examiner
Art Unit 1795

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. 12

WELLS ST. JOHN ROBERTS GREGORY & MATKIN P.S.
601 W. FIRST AVENUE
SUITE 1300
SPOKANE, WA 99201-3828

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MAY 22 2003

OFFICE OF PETITIONS

In re Application of :
Yuichi, et al. :
Application No. 09/966,158 : ON PETITION
Filed: GRLK-003 :

This is a decision on the petition filed January 21, 2003 under 37 CFR 1.182 to change the name of an inventor.

The petition is **GRANTED**.

A petition to change the name of an inventor in an application must include the required petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The above-identified application has been examined and found in compliance with Office procedures to effect a name change.

The power of attorney submitted herewith has been entered into the record.

This application is being forwarded to Technology Center 1600 for correction to the PALM bib-data sheet by the TC's technical support staff and rendering of decision on the accompanying petition under 37 CFR 1.48.

Telephone inquiries pertaining to this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 10

ROBERT G. WEILACHER
SMITH GAMBRELL & RUSSELL LLP
1850 M STREET, NW - SUITE 800
WASHINGTON, D.C. 20036

In re Patent No. 6,489,071	:	
Issue Date: May 2, 2002	:	
Application No. 09/910,916	:	ON PETITION
Filed: July 24, 2001	:	
Attorney Docket No. 032739W053	:	

This is a decision on the petition filed May 14, 2003, to waive the rules and accept the addition of the assignee on the front page of the above-identified patent.

The petition is granted.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (703) 306-5684. 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 forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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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KILLWORTH GOTTMAN HAGAN & SCHAEFF LLP
ONE DAYTON CENTRE, SUITE 500
DAYTON, OH 45402-2023

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SEP 20 2004

OFFICE OF PETITIONS

In re Application of :
Paul E. Burrows et al :
Application No. 09/966,163 : DECISION ON PETITION
Filed: September 28, 2001 : UNDER 37 CFR 1.78(a)(3)
Atty Dkt No. VIT 0012 PA/40926.13 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/427,138, as set forth in the amendment filed concurrently with the instant petition. This is also a decision on the concurrently filed petition under 37 CFR 1.47(a), which is being treated as a petition under 37 CFR 1.183 seeking waiver of the provisions of 37 CFR 1.67(a)(1), which states that a supplemental oath or declaration must be executed by all the named inventors.

The petition under 37 CF$ 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.183 is **GRANTED**.

Discussion of Petition under 37 CFR 1.78(a)(3)

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information

where there is a question whether the delay was unintentional.

The instant pending application was filed on September 28, 2001, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the above-noted, prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the above-noted, 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 above-noted, prior-filed application. In order for the instant application to be entitled to the benefit of the above-noted, 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 above-noted, prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the above-noted, 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.

Discussion of Petition under 37 CFR 1.183

MPEP § 603, provides that, "[w]hen an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, it is possible that the requirement may be suspended or waived in accordance with 37 CFR 1.183." Therefore, the submission of a petition under 37 CFR 1.47(a) is not the appropriate avenue of relief in this instance. Accordingly, the petition has been treated as a petition under 37 CFR 1.183 to waive the provisions of 37 CFR 1.67(a)(1) for a supplemental declaration executed by less than all the named inventors who originally executed a declaration.

Petitioner requests acceptance of the supplemental declaration filed concurrently with the instant petition without the signature of previously signing inventor J. Chris Pagano on the basis that inventor Pagano has left the employ of Vitex Systems, Inc., and cannot be located to execute the supplemental declaration. The petition is accompanied by a "Declaration of Patricia L. Prior" setting forth the efforts made to locate inventor Pagano. In view thereof, petitioner now requests that the supplemental declaration be accepted without the signature of inventor Pagano.

Under the circumstances recounted in the petition, justice would be served by suspending the requirements of 37 CFR 1.67(a)(1). Accordingly, the substitute declaration received June 14, 2004 and executed by the five signing inventors and without the signature of previously signing joint inventor Pagano is accepted as a proper oath under 37 CFR 1.67(a)(1).

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 1772 for processing of the RCE and amendment filed August 5, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

Killworth, Gottman, Hagan & Schaeff, L.L.P.
Suite 500
One Dayton Centre
Dayton OH 45402-2023

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MAY 05 2006
OFFICE OF PETITIONS

In re Application of Paul E. Burrows, Chris J. Pagano, Eric S. Mast, Peter M. Martin, Gordon L. Graff, Mark E. Gross, Charles C. Bonham, Michael G. Hall, and Wendy D. Bennett	
Application No. 09/966,163	DECISION ON PETITIONS UNDER 37 C.F.R. §§1.183 AND 1.324
Patent No. 6,866,901	
Filed: September 28, 2001	
Issue Date: March 15, 2005	
Attorney Docket No. VIT 0012-PA	
Title: METHOD FOR EDGE SEALING BARRIER FILMS	

This is in response to the petitions under 37 C.F.R. §§1.183 and 1.324(a)[1] filed concurrently on January 23, 2006 to correct inventorship.

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1 A grantable petition under 37 C.F.R. §1.324 requires:

(1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;

(2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;

(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and;

Petitioner has requested that Charles C. Bonham, Michael G. Hall, and Wendy D. Bennett be listed as joint inventors. However, since joint inventor Pagano cannot be located, Petitioner cannot obtain a statement from him, memorializing his agreement to the change in inventorship. As the securing of this statement is required by 37 C.F.R. §1.324(b)(2), Petitioner seeks a waiver of this portion of the C.F.R.

The petition under 37 C.F.R. §1.183:

The Petitioner has submitted the petition fee, which has been charged to Petitioner's deposit account, as authorized in the petition. It is noted that Petitioner has previously submitted a petition under 37 C.F.R. §1.47(a), which was treated as a petition under 37 C.F.R. §1.183, requesting the waiver of 37 C.F.R. §1.67)(a)(1), so that the supplemental declaration could be accepted without having been executed by each of the named inventors: previously signing joint inventor Pagano could not be located to execute the supplemental declaration. A decision granting this petition was mailed on September 20, 2004.

37 C.F.R. §1.324(b)(2) sets forth that when one or more persons are being added to the inventorship of a patent, a statement "from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section" is required, "either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change."

It has been determined that justice requires that the requirement that the Petitioner provide a statement from Mr. Pagano, one of the current named inventors, be suspended.

As such, the petition under 37 C.F.R. §1.183 is hereby **GRANTED**, and 37 C.F.R. §1.324(b)(2) is hereby **WAIVED**, to the extent set forth above.

The petition under 37 C.F.R. §1.324:

Petitioner has included the processing fee for correcting inventorship in a patent; a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part; a statement

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(4) The fee set forth in § 1.20(b).

from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section of the C.F.R., agreeing to the change of inventorship in the patent; the proper fee, and; a statement from each of the current named inventors (save Mr. Pagano) agreeing to the change of inventorship. As set forth above, the requirement that a statement be provided from Mr. Pagano has been waived.

As such, the petition is **GRANTED**.

As of the mailing date of this decision, Charles C. Bonham, Michael G. Hall, and Wendy D. Bennett have each been added as a joint inventor.

A certificate of correction will be issued, pursuant to 37 C.F.R. §1.323.

This application is being forwarded to the Certificate of Correction branch for further processing of the certificate of correction, included with the present petition.

Telephone inquiries with regard to this decision should be directed to Paul Shanoski at (571) 272-3225. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 20 2004

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JAN 20 2004

OFFICE OF THE DIRECTOR
TC 3600

MICHAEL BEST & FRIEDRICH LLP
3773 CORPORATE PARKWAY
SUITE 360
CENTER VALLEY, PA 18034-8217

In re Application of
Charles W. Shattuck, et al.
Application No. 09/966,230
Filed: September 28, 2001
For: THRUST BEARING AND METHOD OF MAKING SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on September 29, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated March 25, 2003, although a Notice to that effect has yet to be mailed.

Petitioner states that a response was filed on April 24, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated April 24, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Further, the copy of the facsimile confirmation page and/or cover sheet having the April 24, 2003 date cannot be relied upon as proof of timely filing the response. See section 512 of the MPEP.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 1/14/04

#10
DW

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OFFICE OF THE DIRECTOR
TC 3600

MICHAEL BEST & FRIEDRICH LLP
3773 CORPORATE PARKWAY
SUITE 360
CENTER VALLEY PA 18034-8217

In re Application of
Charles W. Shattuck et al.
Application No. 09/966,230
Filed: September 28, 2001
For: THRUST BEARING AND METHOD OF MAKING SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on January 29, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on April 24, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

mjz:2/19/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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February 4, 2004

Floyd A. Gonzalez
IBM Corporation
Intellectual Property Law
2455 South Rd., P386
Poughkeesie, NY 12601

In re application of:
Janet R. Easton, et al
Serial No.: 09/966,232
Filed: September 28, 2001

DECISION ON PETITION

For: INTELLIGENT INTERRUPT WITH HYPERVISIOR COLLABORATION

This is a decision on the petition received on November 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 29, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 2, 2002. A notice of abandonment was mailed on November 5, 2003.

On November 17, 2003, 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 January 18, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on January 18, 2002 with a certification of mailing dated November 8, 2001.

A one-month extension of time has been charged to deposit account 09-0463 and the petition fee of $130, has been returned to counsel's account.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2181.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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UNITED STATES DEPARTMENT OF COMMERCE
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February 4, 2004

Floyd A. Gonzalez
IBM Corporation
Intellectual Property Law
2455 South Rd., P386
Poughkeesie, NY 12601

In re application of:
Janet R. Easton, et al
Serial No.: 09/966,232
Filed: September 28, 2001

DECISION ON PETITION

For: INTELLIGENT INTERRUPT WITH HYPERVISIOR COLLABORATION

This is a decision on the petition received on November 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 29, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 2, 2002. A notice of abandonment was mailed on November 5, 2003.

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The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2181.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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JUN 13 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Of :
OTSUKA, NAOJI, et al :
Application No: **09/966251** : Withdrawal From Issue
Filed: October 1, 2001 :
Title: **PRINTING APPARATUS, PRINTING METHOD, DATA PROCESSING METHOD AND RECORDING MATERIAL** :

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue.

The application is being withdrawn to permit reopening of prosecution; to consider an Information Disclosure Statement.

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.

Leo Boudreau
Acting Director, Technology Center 2600
Communications

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Kiyoaki Murai, et al. :
Application No. 09/966,267 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No.: 110750 :

This is a decision on the petition, filed October 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 1, 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 2629 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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Date : October 5, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Kiyoaki Murai, et al.
Application No. : 09/966,267
Filed : October 1, 2001

The above-identified application has been assigned Patent No. 7,123,276 and an issue date of October 17, 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 October 17, 2006:

> "All reference to Patent No. 7,123,276 to KIYOAKI MURAI, ET AL. of JAPAN for IMAGE PROCESSING METHOD, IMAGE PROCESSING APPARATUS, ELECTRONIC DEVICE, IMAGE PROCESSING PROGRAM, AND RECORDING MEDIUM ON WHICH THE SAME PROGRAM IS RECORDED appearing in the Official Gazette of October 17, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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 K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/14/06

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/960275 Patent No. 6838887

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check fig sheets

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐	**Approved**	All changes apply.
☒	**Approved in Part**	Specify below which changes do not apply.
☐	**Denied**	State the reasons for denial below.

Comments: All changes are approved except for the changes to the drawings. The PTO can not make changes to the drawings by itself. Applicant must submit corrected figure sheets to make changes to the drawings.

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2858
Art Unit

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)
6641315	2003-11-04	09966293	2001-09-28	AP75US

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

A Joint Patentee, all of whom are signing this petition			
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			
Patentee 1		Remove	
Signature	/ks/	Date (YYYY-MM-DD)	2007-02-06
Name	Kia Silverbrook		
Patentee 2		Remove	
Signature	/tak/	Date (YYYY-MM-DD)	2008-02-06
Name	Tobin Allen King		
Additional Patentees may be generated within this form by selecting the Add Button		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6641315
Issue Date: November 4,2003
Application No. 09966293
Filed: September 28,2001
Attorney Docket No. AP75US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 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 February 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.

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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PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
CORPORATE INTELLECTUAL PROPERTY
1109 MCKAY DRIVE; MAIL STOP SJ41
SAN JOSE CA 95131

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APR 20 2006

OFFICE OF PETITIONS

In re Application of :
Ehmann, et al. :
Application No. 09/966,297 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. US018112 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2005, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Corrected Notice of Allowance and Fee(s) Due, mailed December 23, 2004. Accordingly, this application became abandoned on March 24, 2005. A Notice of Abandonment was mailed on May 25, 2005.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the December 23, 2004 Corrected Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
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
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,301	09/28/2001	Kevin M. Jones	1662-40700 JMH (P01-3594)	5034

7590 04/17/2008

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
MEUCCI, MICHAEL D	

ART UNIT	PAPER NUMBER
2142	

NOTIFICATION DATE	DELIVERY MODE
04/17/2008	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☑ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA, OK 74119

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of :
Whitehead : DECISION ON PETITION
Application No. 09/966,303 :
Filed: September 28, 2001 :
Atty. Dkt. No.: BAI525-520/01786 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the final Office action mailed April 21, 2006. 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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Derek Booth, et al. :
Application No. 09/966,326 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 35361-0150 (303402) :

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity with a continuation application filed April 12, 2005. As continuity has been established by this decision reviving the above-identified application, the application is again abandoned in favor of a continuing application No. 11/104,155 filed April 12, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

The application file is being forwarded to Files Repository.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

LSI Logic Corporation
1551 McCarthy Blvd.
M/S: D-106 Patent Department
Milpitas, CA 95035

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APR 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Alaa F. Alani and Kenneth S. Hunt :
Application No. 09/966,327 :
Filed: September 28, 2001 :
Atty Docket No. A2-4059 1496.00150 :
Title: REDUCING THE EFFECT OF :
SIMULTANEOUS SWITCHING NOISE :

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition filed January 25, 2002, under 37 C.F.R. §1.47(b) for the right to make application for patent on behalf of and as agent for the co-named inventor, Kenneth Steven Hunt, and to revive the application from abandonment. This petition is properly treated as a petition under 37 C.F.R. §1.47(a)[1].

The petition under §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 September 28, 2001, with a declaration identifying Alaa F. Alani and Kenneth S. Hunt as joint inventors. However, the declaration was only executed by inventor Alani. In addition, applicants did not submit the statutory basic filing fee. Accordingly, on October 25, 2001, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," informing applicants that a declaration with the signature of inventor Hunt, the basic filing fee and the surcharge for late filing under §1.16(e) were required. This Notice set a two-month period for reply, with extensions of time obtainable under §1.136(a).

Preliminarily, petitioner is advised that the instant application has not become abandoned. The filing of the instant reply, including a petition under §1.47; and payment of the basic filing fee, was made timely by an accompanying petition for a one-month extension of time. Given this reply, the application has not become abandoned.

---

[1] Filing under 37 C.F.R. § 1.47(b) and 35 U.S.C. 118 is permitted only where no inventor is available to make application. In this instance, joint inventor Alani has made application.

Accordingly, the instant petition is **DISMISSED AS MOOT** to the extent that it requests that the instant application be revived from abandonment. Petitioner is further advised that if the application had become abandoned, revival would require not only filing of a petition under §1.47 but also filing of a petition to revive under §1.137(a) or §1.137(b).

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. Applicant has authorized that the petition fee be charged to Deposit Account No. 12-2252. The last known address of inventor Hunt is set forth in the petition. However, the petition is not grantable because it is deficient as to requirements (1) and (2).

As to requirement (1), rule 47 applicant has not submitted adequate proof of refusal. Patent Attorney Sandeep Jaggi states that one attempt to present the application papers to non-signing inventor Hunt at his last known address by Federal Express delivery was made. However, on December 12, 2001, the package was returned by Federal Express because the address was incorrect. Applicant's evidence confirms mailing of the application papers, but not receipt by non-signing inventor Hunt. Moreover, applicant has not submitted direct evidence of refusal. Thus, this presentation does not serve as adequate support for a claim of refusal by conduct. A showing that an inventor has not responded to a communication that he has not received is not sufficient to show refusal to join in the application by conduct; on those facts, refusal cannot be inferred.

Under such circumstances, status under §1.47(a) is properly sought with a showing that the non-signing inventor cannot be reached or found, after diligent efforts, to execute the declaration. In this instance, applicant has not shown diligent efforts to locate inventor Hunt. There is no indication that Rule 47 applicant attempted to determine inventor Hunt's forwarding address, and to send the application papers to that address for consideration by inventor Hunt. See MPEP 409.03(d). If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet continue to fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate non-signing inventor Hunt should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicant should submit documentary evidence such as the results of an E-mail or Internet search.

As to requirement (2), the declaration as submitted is not acceptable. 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." Thus, in addition to other requirements of law (35 U.S.C. 111(a) and 115), in an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a):

> (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR

1.63 or 1.175 (see MPEP §602, §605.01, and §1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.

(Emphasis added).

Here, applicants have indicated, by having attorney Jaggi purportedly sign on behalf of non-signing inventor Hunt, that the declaration as submitted is not signed by inventor Alani on behalf of herself and on behalf of joint inventor Hunt. Accordingly, a declaration signed by inventor Alani on behalf of herself and on behalf of inventor Hunt is required. (Her signature should appear on the signature line for herself and for inventor Hunt, noting that she is signing on his behalf.)(Additionally, the second signature block should appear on the same page as the first with the text of the declaration; or at the bottom of the first page, it should be noted that an additional page is attached for signature of additional inventors.)

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 CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

LSI Logic Corporation
1551 McCarthy Blvd.
M/S: D-106 Patent Department
Milpitas, CA 95035

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MAY 1 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Alaa F. Alani and Kenneth S. Hunt	:	
Application No. 09/966,327	:	DECISION NOTING JOINDER
Filed: September 28, 2001	:	OF INVENTOR AND PETITION
Atty Docket No. A2-4059 1496.00150	:	UNDER 37 C.F.R. §1.47(a)
Title: REDUCING THE EFFECT OF	:	MOOT
SIMULTANEOUS SWITCHING NOISE	:	

This is in response to the "Request for Reconsideration of Petition under 37 C.F.R. §1.47(a)" filed May 9, 2002.

The petition under §1.47(a) is **DISMISSED AS MOOT**.

The above-identified application was filed on September 28, 2001, with a declaration identifying Alaa F. Alani and Kenneth S. Hunt as joint inventors. However, the declaration was only executed by inventor Alani. In response to a "Notice to File Missing Parts of Nonprovisional Application" mailed October 25, 2001, applicants filed the initial petition for status under §1.47(a) asserting that inventor Hunt refused to join in the application. However, the petition was dismissed for failure to show either that non-signing inventor Hunt could not be found, or that he refused to sign the declaration after having been presented with the application papers; and for failure to submit an acceptable oath or declaration executed on his behalf (Decision mailed April 19, 2002). This dismissal set a two-month period for reply, with extensions of time obtainable under §1.136(a).

On May 9, 2002, applicant timely replied, submitting a declaration for patent application signed by previously non-signing inventor Hunt (and inventor Alani). The declaration has been reviewed and found in compliance with 37 CFR 1.63.

In view of the joinder of the 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 Nancy Johnson at (703) 305-0309.

Christina Tartera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HARNESS DICKEY & PIERCE PLC
7700 BONHOMME, SUITE 400
ST. LOUIS, MO 63105

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OFFICE OF PETITIONS

In re Application of
Ben Herbert
Application No. 09/966,352
Filed: September 28, 2001
Attorney Docket No. 5268-000001

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1753 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Crutchfield, et al.
Application No. 09/966,368
Filed: October 1, 2001
Attorney Docket No. NHS0008-US
For: SYSTEMS AND METHODS FOR ASSESSING VASCULAR HEALTH

DECISION ON PETITION

This is a decision on the petition entitled, "PETITION TO AMEND THE ORDER OF NAMED INVENTORS IN DECLARATION," filed December 22, 2003 (certificate of mailing date December 13, 2001). The petition will be treated under 37 CFR 1.182.

Pursuant to petitioners' authorization, a $130 petition fee will be charged to deposit account no. 50-1349.

The petition is GRANTED.

The order of inventors will be:

Kevin Crutchfield
Robert Mozayeni
John Davidson
Simon Fitall

A replacement filing receipt is enclosed.

After the mailing of this decision, the application file will be returned to Publications Division. The requested data will be printed on the patent if this can be accomplished without substantial disruption to the issue process. However, if the printing of the patent has progressed to the point where the requested data cannot be included in the printed patent, petitioner may request a Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

George D. Caldwell
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard Seventh Floor
Los Angeles, CA 90025

MAIL

OCT 1 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Uhlik, et al. :
Application No. 09/966,372 :
Filed: May 13, 2002 :
For: ANTENNA ARRAY FOR POINT TO POINT MICROWAVE RADIO SYSTEM :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 13, 2002.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Power of Attorney to petitioners was revoked by assignee on November 27 2002.

A courtesy copy of this decision is being mailed to petitioner at the address on the petition, However, all further communications will be directed to the address listed above until such a time as applicant properly notifies the Patent and Trademark Office of a change of address.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc : FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OGILVY RENAULT
1981 McGILL COLLEGE AVENUE
SUITE 1600
MONTREAL, QC, CANADA H3A 2Y3

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OFFICE OF PETITIONS

In re Application of :
Paul W. DeMone :
Application No. 09/966,391 : DECISION GRANTING PETITION
Filed: September 28, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MOSA-01001US1 :

This is a decision on the petition, filed November 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2816 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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6022 CONSTITUTION AVENUE, NE
ALBUQUERQUE, NM 87110-5941

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OFFICE OF PETITIONS

In re Application of :
Kenneth G. Blemel :
Application No. 09/966,397 : DECISION ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment with drawings, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2857 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 111703

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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OFFICE OF DIRECTOR
GROUP

In re Application of)
VERDONCK et al.)
Application No. 09/966,415)
Filed: September 28, 2001)
Attorney Docket No. NL 000522)

DECISION ON PETITION

This is a decision on the petition, filed September 12, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper reply to the final rejection mailed November 5, 2002. A Notice of Abandonment was mailed on July 23, 2003.

Petitioner states that a Request for Continued Examination (RCE) was in fact timely file by facsimile transmission. To support this assertion, petitioner has submitted a copy of the RCE, a copy of the sending unit 's report confirming transmission and a copy of the auto-reply facsimile transmission receipt which acknowledges receipt of an RCE in the USPTO on February 4, 2003. The RCE bears a certificate of transmission under 37 CFR § 1.8(a) with a transmission date of February 4, 2003.

A review of the application file reveals that the RCE acknowledged as having been received in the USPTO on February 4, 2003, is not of record in the application file and cannot be located. However, M.P.E.P. § 502.1 states "the date of receipt accorded to any correspondence permitted to be sent by facsimile transmission .... is the date the complete transmission is received by an Office facsimile unit, unless the transmission is completed on a Saturday, Sunday, or Federal holiday within the District of Columbia. Correspondence for which transmission was completed on a Saturday, Sunday, or Federal holiday within the District of Columbia, will be accorded a receipt date of the next succeeding day which is not a Saturday, Sunday, or Federal

holiday within the District of Columbia." Accordingly, it is concluded that the RCE was timely received in the PTO but lost after receipt thereof.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the Technical Support staff for processing the RCE and to charge the required fees to Deposit Account No 14-1270. From there, the application file will be returned to the examiner for further examination..

Inquiries regarding this decision should be directed to Jose' G. Dees at (703) 308-4628.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 8

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 0 9 2003

Technology Center 2600

In re Application of :
VANDENAMEELE-LEPLA, PATRICK :
Application No. 09/966,419 :
Filed: September 27, 2001 :
For: METHOD AND APPARATUS FOR CHANNEL ESTIMATION :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on April 1, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys associated with Customer No. 20,350 are granted the request for withdraw of attorney/agent.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY NC 27512

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. **6**

MARSHALL GERSTEIN & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6357

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FEB 1 0 2003

OFFICE OF PETITIONS

In re Application of :
David Lark :
Application No. 09/966,479 : DECISION GRANTING PETITION
Filed: September 28, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 29757/P-561 :

This is a decision on the petition, filed January 14, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on March 28, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within

45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of May 22, 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 3713 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. **6**

BANNER & WITCOFF
1001 G STREET NW
SUITE 1100
WASHINGTON DC 20001

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JUN 1 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Ye Wang et al	:	
Application No. 09/966,482	:	DECISION GRANTING PETITION
Filed: September 28, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 04770.00023	:	

This is a decision on the petition, filed June 6, 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 applications filed in a foreign country on January 24, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of September 26, 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 2654 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS, MN 55440-1022

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Bruce M. Radl :
Application No.: 09/966,484 : DECISION ON
Filing or 371(c) Date: 09/28/2001 : PETITION
Attorney Docket Number: 13076-002001 :

This is a decision in response to the Renewed Petition to Withdraw Notice of Abandonment under 37 CFR 1.181, filed January 29, 2007.

The petition is granted.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed May 15, 2006. The Office communication set a two (2) month period for reply. No extensions of time were available.

Applicant filed a petition under 37 CFR 1.181 on August 24, 2006, wherein Applicant asserted that the Office communication was never received. The petition was dismissed in a Decision mailed December 5, 2006, for failing to meet the requirements of a grantable petition under 37 CFR 1.181.

The present petition

With the instant petition, Applicant has demonstrated non-receipt of the Office communication by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to the Office of Initial Patent Examination for re-mailing of the Office communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 27

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OFFICE OF PETITIONS

In re Application of
Bruce M. Radl
Application No.: 09/966,484
Filing or 371(c) Date: 09/28/2001
Attorney Docket Number: 13076-002001

DECISION ON
PETITION

This is a decision in response to the Petition to Withdraw Notice of Abandonment, filed August 28, 2006. The petition is properly treated under 37 CFR 1.181 (no fee).

This Petition is **dismissed**.

Any further petition 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 [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed May 15, 2006. The Office communication set a two (2) month period for reply. No extensions of time were available.

Applicant asserts that the Office communication was never received. In support of this assertion, Applicant files a copy of the Patent Application Information Retrieval (PAIR) system transactional history and notes that there is no indication therein that the Office communication was mailed to Applicant. Applicant also files the declaration of Applicant's Senior Patent Docketing Specialist attesting to the fact that a check of Applicant's computerized docket system revealed that the Office communication was not entered or docketed, and the electronic mail log contained no record of receiving the Office communication.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the

original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis

A review of the petition reveals that the correspondence address in the petition differs from the correspondence address of record. As such, it is unclear whether Applicant is in a position to attest on a personal knowledge basis as to whether the office action was received at the correspondence address of record. Also, Applicant has failed to include a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. Accordingly, the petition to withdraw the holding of abandonment is dismissed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Patent No. 7,405,759 :
Issue Date: July 29, 2008 :
Application No. 09/966,484 : ON PETITION
Filed: September 28, 2001 :
Patentee: Bruce M. Radl :

This is a decision on the Request for Certificate of Correction filed August 11, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a certificate of correction.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, **must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The petition is **dismissed**.

Petitioner requests issuance of a Certificate of Correction in the name of "Mosaic Imaging, Inc., Stow, MA." However, USPTO assignment records fail to show recordation of the documentary evidence of the chain of title from the original inventor(s) to the current assignee. Since no documentary evidence of the chain of title was submitted for recordation and/or recorded prior to issuance of the above patent, a Certificate of Correction would not be in order. *See* MPEP Section 306.

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

Since the request cannot be granted, the $100 Certificate of Correction fee submitted on August 11, 2008 will be applied towards the $130 processing fee for treatment of the instant request. Therefore, the difference of $30 will be charged to petitioner's deposit account, as authorized.

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

The Centralized facsimile number is (571) 273-8300, and documentation to this number should be addressed to the Office of Petitions.

This application file is being referred to Files Repository.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Patent No. 7,405,759
Issue Date: July 29, 2008
Application No. 09/966,484
Filed: September 28, 2001
Patentee(s): Bruce M. Radl

ON PETITION

This is a decision on the request for reconsideration under 37 CFR 3.81(b) filed July 6, 2009, to delete the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Timothy French appearing in the present request for reconsideration 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**[1].

Finance records show that petitioner's deposit account was credited $100 for the Certificate of Correction fee on November 12, 2008. However, since $100 is required for the requested Certificate of Correction, that fee will be charged to petitioner's deposit account, as authorized in the request filed on August 11, 2008.

This patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] It is noted that the petition filed August 11, 2008, was inadvertently dismissed in a decision mailed on November 12, 2008; therefore, the above deciding official apologizes for any inconvenience caused to petitioner.

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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March 16, 2004

Jason P. Cooper
Bank of America Plaza
101 South Tryon St., Suite 400
Charlotte, NC 28280-4000

In re application of:
Ferranda DECISION ON PETITION
Serial No.: 09/966,485
Filed: August 28, 2001
For: A PACKAGE, PARTICULARLY FOR PACKING INDUSTRIAL PRODUCTS

This is a decision on the petition received on January 30, 2004, 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 29, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 3, 2002. A notice of abandonment was mailed on December 16, 2004.

On January 30, 2004, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice to File Missing Part on January 29, 2002 with a certificate of mailing dated December 28, 2001.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing part on January 29, 2002. The fees have been corrected for release of the application to the Technology Center 3721.

The petition is hereby GRANTED.

The office regrets an inconvenience this may have caused counsel.

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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AT & T LEGAL DEPARTMENT - WT
PATENT DOCKETING
ROOM 2A-207, ONE AT& T WAY
BEDMINSTER NJ 07921

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
Cherchali et al. :
Application No. 09/966,492 :
Filed: September 28, 2001 :
Attorney Docket No. 2000-0219 :

ON PETITION

This is a decision on the petition, filed January 21, 2009, under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is granted to the extent *infra*.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, inventor Steven M. Michelson has not agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to November 28, 2000.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question.[1] Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Steven M. Michelson to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

This application is being referred to Technology Center AU 2419 for further examination on the merits.

Also, the address given on the petition differs from the address of record. 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.

[1] If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate. *See* MPEP 715.04(C).

Inquiries regarding this communication may be directed to the undersigned at (571) 272-6692. Inquiries concerning the examination or status of the application should be directed to the Technology Center.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Wall & Tong, L.L.P.
595 Shrewsbury Avenue
Shrewsbury, New Jersey 07702

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Paper No. 10

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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JAN 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Sowden et al. :
Application No. 09/966,497 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. MCP-294 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 26, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 27, 2001.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-27-07

TO SPE OF : Technology Center 2616 09/966498

SUBJECT : Request for Certificate of Correction on Patent No.: 7023797 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

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments:

NO ATTACHED CLAIMS 22-35 PROVIDED BY PATENTEE.

SPE

2616

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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February 27, 2004

Bruce S. Weintraub
Becton, Dickinson and Company
1 Becton Dr.
Mail Code 089
Franklin Lakes, NJ 07417-1880

In re application of:
S. C. Keith DECISION ON PETITION
Serial No.: 09/966,505
Filed: September 28, 2001

For: METHODS FOR IMPROVING SENSITIVITY OF OXYGEN BIOSENSORS

This is a decision on the petition received by fax on January 26, 2004, 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 29, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 2, 2002. A notice of abandonment was mailed on December 16, 2003.

On January 26, 2004, 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 March 11, 2002, with two months of extension.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on March 11, 2002 with a certification of mailing dated February 28, 2002.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 1623.

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
www.uspto.gov

NANCY M. LAMBERT
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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NOV 22 2005

OFFICE OF PETITIONS

In re Application of
MOSBEY et al.
Application No. 09/966,511
Filed: September 28, 2001
Attorney Docket No. 55837US002

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue an publication fees in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed July 13, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 14, 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 the issue fee and the publication fee; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay have been received. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to the Office of Patent Publication.

Denise Pothier
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

WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

COPY MAILED

JUN 27 2008

OFFICE OF PETITIONS

In re Patent No. 6951110	:	
Issue Date: 10/04/2005	:	
Application No. 09/966514	:	NOTICE
Filed: 09/27/2001	:	
Attorney Docket No. 153501-03902447US	:	

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) 272-3231.

DWood

Douglas I. Wood
Attorney Advisor
Office of Petitions

MP
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Box-seq

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PATENT & TRADEMARK OFFICE

T

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 00-1312-C)

In the Application of:	)	
	)	
Michael S. Kopreski	)	Before the Examiner:
	)	
Serial No. 09/966,515	)	
	)	Group Art Unit: 1655
Filed: September 28, 2001	)	
	)	
For: Method Enabling Use of Extracellular RNA Extracted From Plasma or Serum to Detect, Monitor or Evaluate Cancer	)	Confirmation No.: 5477

TRANSMITTAL LETTER

Box MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

Sir:

In regard to the above-identified application:

1. We are transmitting herewith the attached

   a. Copy of the Notice to File Missing Parts of Application
   b. Response to Notice to File Missing Parts of Application and Preliminary Amendment
   c. Executed copy of Oath or Declaration
   d. Sequence Listing
   e. Computer-readable copy of sequence listing
   f. Return Receipt Postcard

2. With respect to additional fees:

   a. A check in the amount of $65.00 is enclosed.

4. Please charge any deficiency in the amount due, or credit any overpayment, to Deposit Account No. **13-2490**. A duplicate copy of this sheet is enclosed.

5. **CERTIFICATE OF MAILING UNDER 37 CFR § 1.8:** The undersigned hereby certifies that this Transmittal Letter and the papers, as described in paragraph 1 hereinabove, are being deposited with the United States Postal Service with sufficient postage as "First Class Mail" in an envelope addressed to: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231, on this **21st** day of **November, 2001**.

By: _____
Kevin E. Noonan
Reg. No. 35,303

#3

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MAY 0 6 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/966,515	09/28/2001	Michael S. Kopreski	00-1312-C

CONFIRMATION NO. 5477

FORMALITIES LETTER

OC000000006954247

Kevin E. Noonan
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago, IL 60606

Date Mailed: 10/23/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

05/09/2002 BABRAHA1 00000109 09966515

01 FC:205 65.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 65.**

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE
MAY 0 6 2002
PATENT & TRADEMARK OFFICE
JC106

#5

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 00-1312-C)

In the Application of:	)	
	)	
Michael S. Kopreski	)	Before the Examiner:
	)	
Serial No. 09/966,515	)	
	)	Group Art Unit: 1655
Filed: September 28, 2001	)	
	)	
For: Method Enabling Use of Extracellular RNA Extracted From Plasma or Serum to Detect, Monitor or Evaluate Cancer	)	Confirmation No.: 5477

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION MAILED OCTOBER 23, 2001 AND PRELIMINARY AMENDMENT

Box MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

Sir:

Responsive to the Notice to File Missing Parts of Application, mailed October 23, 2001, applicants submit herewith an executed copy of their Declaration, pursuant to 37 C.F.R. §§1.63 and 1.68. A check in the amount of $65.00 accompanies this Response.

Also submitted herewith is a paper copy of the Sequence Listing and a floppy diskette including an electronic copy of the Sequence Listing. Please amend this application as indicated below.

IN THE SPECIFICATION

After page 26 of the specification, please insert the paper copy of the Sequence listing.

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

The specification was amended to comply with the collective requirements of 37 C.F.R. 1.821 to 1.825. The sequence listing was not submitted in the original application. The applicants submit that the information contained in the sequence listing is identical to the

information contained in the electronic version of the sequence listing. The applicants further submit that no new matter has been introduced into the application as a result of the present amendment.

Prompt consideration and entry of this amendment are respectfully requested.

Respectfully submitted,

Date: November 21, 2001

Kevin E. Noonan
Registration No. 35,303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 02-02

Paper No. 4

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

COPY MAILED

MAR 0 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Sanders et al.	:	
Application No. 09/966,551	:	DECISION DISMISSING
Filed: 7 November, 2001	:	PETITION
Attorney's Docket No. 26272/04003	:	

This is a decision on the petition styled under 37 CFR 1.182 filed on 7 November, 2001, which is treated as a petition under 37 CFR 1.53(e) and 1.10(e) to accord the above-identified application a filing date of 26 September, 2001, including two (2) pages containing 11 claims as a part of the initial disclosure.

The petition is **DISMISSED**.

On 26 September, 2001, the application was deposited without claims. Accordingly, on 26 October, 2001, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that, *inter alia*, the application was incomplete because the specification does not include at least one claim, and that the filing date will be the date of receipt of at least one claim. In response, on 7 November, 2001, petitioners filed the present petition accompanied by, *inter alia*, two (2) pages containing 11 claims.[1]

[1] A duplicate copy of the petition and accompanying documentation was filed by facsimile on 1 February, 2002.

Petitioners assert that the two (2) pages containing 11 claims were present on filing on 26 September, 2001. In support, petitioners supplied with the present petition, a copy of a postcard receipt itemizing the filing of, *inter alia*, 36 pages of a "Utility Patent Application and Drawings." Petitioners also submitted a copy of an Express Mail customer label as evidence that the application, including the missing drawing figure, were deposited in Express Mail Post Office to Addressee service on 26 September, 2001. The "date-in" on the copy of the Express Mail label submitted with the present petition is not legible. A legible copy was presented with the papers supplied on 7 November, 2001, however. The "date-in" on the Express Mail label is 9/26/01.

A review of the record reveals that no two (2) pages containing 11 claims are located among the application papers deposited on 26 September, 2001.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503). Unfortunately, petitioners' postcard receipt does not bear an Office-date stamp from the USPTO. As such, the postcard receipt does not serve as evidence that the items listed therein were received in the USPTO. If petitioners have a copy of the postcard receipt for this application with a USPTO "Office date" stamp, a copy of that postcard should be submitted with any renewed petition.

Additionally, petitioners should note that the Express Mail mailing label is not persuasive evidence of the receipt of two (2) pages of 11 claims on 26 September, 2001, because the other application papers filed by Express Mail were received on 26 September, 2001. Where there is a dispute as to the *contents* of correspondence submitted to the Office an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what documents and or fees were filed in the Office with such correspondence. A petition under 37 CFR 1.10 is therefore inappropriate in the

present case.[2] A petition under 37 CFR 1.10(e) is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office.

The application will be processed and examined using the application papers filed on 26 September, 2001, and the two (2) pages containing 11 claims supplied on 7 November, 2001. The copies of other application papers supplied with the present petition on will not be used for processing or examination purposes, but will be retained in the application file.

As the petition is due to a filing error on the part of applicant and not an error on the part of the USPTO, the petition fee of $130.00 will be assessed to counsel's deposit account, No. 03-0712.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of 7 November, 2001, using the application papers deposited on 26 September, 2001, and the two (2) pages containing 11 claims supplied on 1 November, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 07-02

Paper No. 7

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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JUL 2 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Sanders et al.	:	
Application No. 09/966,551	:	DECISION GRANTING
Filed: 26 September, 2001	:	PETITION
Attorney's Docket No. 26272/04003	:	

This is a decision on the renewed petition filed on 23 May, 2002, under 37 CFR 1.53 to accord the above-identified application a filing date of 26 September, 2001, including two (2) pages containing 11 claims as a part of the initial disclosure.

The petition is **GRANTED**.

On 26 September, 2001, the application was deposited. Accordingly, on 26 October, 2001, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that, *inter alia*, the application was incomplete because the specification does not include at least one claim, and that the filing date will be the date of receipt of at least one claim. In response, on 7 November, 2001, petitioners filed a petition accompanied by, *inter alia*, two (2) pages containing 11 claims.[1] The petition filed on 7 November, 2001, was dismissed on 7 March, 2002.

In the present renewed petition, petitioners again assert that the two (2) pages containing 11 claims were present on filing on 26 September, 2001. In support, petitioners supplied with the present petition, a copy of a postcard receipt itemizing the

[1]A duplicate copy of the petition and accompanying documentation was filed by facsimile on 1 February, 2002.

filing of, *inter alia*, 36 pages of a "Utility Patent Application and Drawings." The postcard, which identifies the application by first named inventor's last name (misspelled), invention title, and attorney docket number, bears a USPTO Office-date stamp of "09/26/01" which also contains the above-identified application number.

It is noted that the postcard receipt, an unstamped copy of which was filed with the original petition on 7 November, 2001, shows that the original, typed number "Utility Patent Application and Drawings" was 22 pages. That number was lined-through, and the number "36" was handwritten below. Petitioners explain that the application as filed had 21 pages of specification, claims, and abstract (the postcard inadvertently identified 22 pages of specification, claims, and abstract), and that counsel amended the postcard receipt by hand prior to submission to include the 14 sheets of drawings. As such, the application as filed, states petitioner's counsel in the petition filed on 7 November, 2001, consisted of a total 35 pages, including the sheets of drawings.

A review of the official record reveals that 18 pages of description, one (1) page of abstract, and 14 sheets of drawings received on 26 September, 2001, are located therein. Since the individual at the USPTO who compared petitioner's postcard to the items received found that the specification, claims, abstract, and drawings as filed contained at least 36 pages, the evidence is persuasive that two (2) pages of claims were among the application papers received on 26 September, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office. The application, including two (2) pages containing 11 claims, is therefore entitled to a filing date of 26 September, 2001.

Petitioners are cautioned that, in future filings, the postcard receipt should separately itemize each part of the application being filed (number of pages of specification including claims, number of claims, number of sheets of drawings, number of figures of drawings, etc.).

The application will be reprocessed with a filing date of 26 September, 2001, using the application papers filed on 26 September, 2001, and the two (2) pages containing 11 claims supplied on 7 November, 2001. The copies of application papers filed with the present renewed petition will not be used for processing or examination, but will be retained in the application file.

No fee is due with the present renewed petition.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of 26 September, 2001, using the application papers deposited on 26 September, 2001, and the two (2) pages containing 11 claims supplied on 1 November, 2001. Thereafter, the application will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

March 4, 2005

Joy Alwan
United States Department of Energy
GC-62 (FORSTL)MS-6F-067
1000 Independence Ave., S.W.
Washington, D.C 20585-0162

In re Application of:
Julie J. Hand, et al
Serial No: 09/966,568 On Petition
Filing Date: September 27, 2001
For: DISPOSABLE REMOTE ZERO HEADSPACE EXTRACTOR

In response to the petitions received May 1, 2002, 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 December 22, 2001. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned February 23, 2002. The notice of abandonment was mailed on November 21, 2003.

The evidence submitted is sufficient to establish that the petitioners did not received the Notice to File Missing Parts of Nonprovisional Application Papers in a timely matter. Due to the anthrax contamination.

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 for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRISTIE PARKER & HALE LLP
P O BOX 7068
PASADENA, CA 91109-7068

COPY MAILED

MAR 15 2005

OFFICE OF PETITIONS

In re Application of :
Ho-Jin Kweon et al :
Application No. 09/966,572 : DECISION GRANTING PETITION
Filed: September 25, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 47227/DBP/Y35 :

This is a decision on the petition, filed March 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1746 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

BANNER & WITCOFF , LTD
ATTORNEYS FOR CLIENT NUMBER
007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED

JUN 24 2010

OFFICE OF PETITIONS

In re Application of	:	
John S. Hendricks.	:	
Application No. 09/966594	:	ON APPLICATION FOR
Filing or 371(c) Date: 10/01/2001	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
007412.00393	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, filed March 12, 2010. Applicant submits that the proper patent term adjustment to be indicated on the patent is 1023 days, not 830 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-26-05

TO SPE OF : ART UNIT 2182

SUBJECT : Request for Certificate of Correction on Patent No.: 6874046

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please check Fig.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

_____ _____
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

CONLEY ROSE & TAYON, P.C.
P. O. BOX 3267
HOUSTON TX 77253-3267

COPY MAILED

MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of
Krontz & McBride
Application No. 09/966,649
Filed: September 28, 2001
Attorney Docket No.1662-34100
For: TOPOLOGY FOR FLEXIBLE AND PRECISE SIGNAL TIMING ADJUSTMENT

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 19, 2002 (certificate of mailing date January 23, 2002).

The petition is granted.

Petitioner has shown that the non-signing inventor, Christopher D. McBride has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, an exhibit to the petition is an express written refusal by Mr. McBride to join in the filing of the above-identified application. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 12 2006

OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP (SF)
2 PALO ALTO SQUARE
3000 El Camino Real, Suite 700
PALO ALTO, CA 94306

In re Application of :
Daoben Li :
Application No. 09/966,683 :
Filed: September 27, 2001 :
Attorney Docket No. 10748-006-999 :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the petition under 37 CFR 1.181 filed November 17, 2004, to withdraw the holding of abandonment. This is also a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 20, 2006.

The petition under 37 CFR 1.181 is **GRANTED.**

A review of the record shows that a non-final Office action was mailed to applicant on February 6, 2004, setting a three (3) month shortened statutory period within which to file a reply. Petitioner timely submitted a response and a petition for a three (3) month extension of time with the $475 fee on August 6, 2004. Accordingly, the present application was improperly held abandoned and the abandonment is hereby withdrawn.

The request to withdraw as attorney is **APPROVED** to the extent below.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 CFR § 1.136(a).

Thomas D. Kohler has been withdrawn as attorney or agent of record; all other attorneys remain of record.

A review of the record indicates that Customer No. 43850 does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw Customer No. 43850 under 37 CFR § 1.36(b) is not applicable.

All future correspondence will be directed to the first named inventor, Daoben Li, at the first address indicated below.

This application file is being referred to Technology Center Art Unit 2631, for review of the amendment filed August 6, 2004.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

cc: DAOBEN LI
10 XITUCHENG ROAD
BUPT.BOX 93
BEIJING 100876, 100876 P.R.
CHINA

LINKAIR COMMUNICATIONS, INC.
2901 TASMAN DRIVE, SUITE 109
SANTA CLARA, CA 95054

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WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of :
Shawn Dominic Loveland, et. al. :
Application No. 09/966,685 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 13768.233 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2005, to revive the above-identified application.

The application became abandoned for failure to respond to the final Office action mailed May 27, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The 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 and an amendment; (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 filed December 19, 2005.

The application file is being referred to Technology Center Art Unit 2154.

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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WOODCOCK WASHBURN
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

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MAY 04 2006

OFFICE OF PETITIONS

In re Application of	:	
Steven G. Smith et al	:	
Application No. 09/966,700	:	DECISION ON PETITION
Filed: September 28, 2001	:	TO WITHDRAW
Attorney Docket No. BELL-0138/01189	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 2616 to await a reply to the final Office action mailed February 8, 2006.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: WITHERS & KEYS FOR BELL SOUTH
P.O. BOX 71355
MARIETTA, GA 30007-1355

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Blakely, Sokoloff, Taylor & Zafman
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of Ford :
Application No. 09/966,701 : Decision on Petition
Filing Date: September 28, 2001 :
Attorney Docket No. 42.P11847 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 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 February 15, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 16, 2005. A Notice of Abandonment was mailed on July 29, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision so that steps can be taken for issuance of the application as a patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

Vaibhav P. Kadaba
KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530

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OFFICE OF PETITIONS

In re Application of
Frisco et al.
Application No. 09/966,710
Filed: September 28, 2001
Attorney Docket No. 38949/247779

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Letters of Administration" filed August 13, 2002 (certificate of mailing date August 7, 2002) which is being treated as a petition under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on September 28, 2001, without a properly executed oath or declaration. Accordingly, on June 7, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of August 7, 2002.

In reply, applicant filed a copy of "Letters of Administration".

a grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2). A petition fee of $130.00 has been charged to deposit account 11-0855.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.64 . Although rule 47 applicant submitted "Letters of Administration" appointing Jeffrey Joseph Shue as the administrator of the deceased inventor, the declaration does not

meet the requirements of 37 CFR 1.64 (b). On renewed petition, petitioner should state the relationship of the person to the deceased inventor. The oath or declaration should also state Jeffrey Joseph Shue is the legal representative and provide the citizenship, residence and mailing address of the legal representative.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for D Wood
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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. 10

Vaibhav P. Kadaba
KILPATRICK STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530

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OFFICE OF PETITIONS

In re Application of
Lynn Frisco, James Grissom, Matthew Henry, James McDonnell, Michael Miedona, James Peters, Allison Shue, Jeffrey Shue, Larry Shutzberg, Richard Wheadon, William Wheaton and Alec Black
Application No. 09/966,710
Filed: September 28, 2001
Attorney Docket No. 38949/247779
Title of Invention: WEB-BASED COLLABORATIVE PROJECT AND PROCESS MANAGEMENT SOLUTION

ON RENEWED PETITION

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 25, 2002.

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 will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

February 27, 2004

Sarah A. Kagan
Banner & Witcoff
1001 G. St., N.W.
11th Floor
Washington, DC 2001

In re application of:
Kinzler et al. DECISION ON PETITION
Serial No.: 09/966,724
Filed: October 1, 2001
For: AMPLIFICATION OF MDM2 GENE OF HUMAN MDM2 GENE IN HUMAN TUMORS

This is a decision on the petition received on December 5, 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 December 12, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned February 13, 2002. The notice of abandonment was mailed on November 21, 2003.

On December 5, 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 December 12, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed December 12, 2001.

The petition is hereby Granted.

Enclosed is new Notice to File Missing Parts giving counsel 2 months from the date of the notice to respond.

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

Enclosure: 1

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P.O. BOX 1450
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THE WEINTRAUB GROUP, P.L.C.
SUITE 240
32000 NORTHWESTERN HIGHWAY
FARMINGTON HILLS, MI 48334

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OFFICE OF PETITIONS

In re Application of :
John M. Klein :
Application No. 09/966,725 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. SAO-104-A-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item 1.

A Notice of Allowance and Fee(s) Due was mailed on November 19, 2004, requiring the issue fee. On March 28, 2005, a Notice Regarding Drawings was mailed requiring corrected drawings for the above-identified application. It is noted that the requisite issue fee accompanied the present petition on May 16, 2005. However, petitioner did not include a copy of the corrected drawings. Accordingly, the application cannot be revived until a proper response to the Notice Regarding Drawings of March 28, 2005 is filed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
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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Alexandria, VA 22313-1450
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THE WEINTRAUB GROUP, P.L.C.
SUITE 240
32000 NORTHWESTERN HIGHWAY
FARMINGTON HILLS, MI 48334

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of
John M. Klein
Application No. 09/966,725
Filed: September 28, 2001
Attorney Docket No. SAO-104-A-1

ON PETITION

This is a decision on the renewed petition filed September 19, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to respond in a timely manner to the Notice of Allowance/Allowability mailed November 19, 2004. On May 16, 2005, a petition to revive was filed, along with the requisite issue fee. However, the petition was dismissed in a decision mailed July 14, 2005 since corrected drawings were not included. On September 19, 2005, the present petition was filed, along with corrected drawings. The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Publications to oversee the review of the drawings filed September 19, 2005.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC -8 2004

Paper No. 10

In re Application of :
Ulrich Krenzer :
Application No. 09/966,735 : DECISION ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. NHL-KEH-16 US :

This is a decision on the petition filed on October 18, 2004 by which petitioner requests withdrawal of the holding that this application is abandoned for failure to pay the issue and publication fees that were due on or before November 8, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did not receive the Notice of Allowance dated August 8, 2003, or any of the attachments thereto. Therefore, the fee could not be paid. In support of this allegation, petitioner has made a showing as discussed at MPEP § 711.03(c). The showing has been reviewed and it clearly satisfies the requirements of the Notice published at 1156 OG 53 pertaining to abandonment resulting from nonreceipt of Office correspondence. Based upon petitioner's showing, it is clear this application is not technically abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Technology Center 3700 to mail a new Notice of Allowance, together with a complete copy of the Notice of Allowability and all attachments thereto. The period for payment of the Issue Fee will run THREE MONTHS from the date upon which the new Notice of Allowance is mailed, and cannot be extended pursuant to 37 CFR 1.136. **The period for reply to certain requirements that may be set forth on the attached Notice of Allowability with respect to the submission of an oath or declaration, and with respect to certain requirements pertaining to the submission of formal drawings or drawing corrections, can no longer be extended. See 37 CFR 1.85(c), and 37 CFR 1.136(c) as amended, effective November 7, 2000, published at 65 Federal Register 54670 and 54674, respectively.**

After the above mailings are accomplished, the application will be forwarded to the Office of Patent Publication for processing into a patent.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Kennametal Inc.
P.O. Box 231
1600 Technology Way
Latrobe, PA 15650

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 4

DANN DORFMAN HERRELL & SKILLMAN
SUITE 720
1601 MARKET STREET
PHILADELPHIA PA 19103-2307

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OFFICE OF PETITIONS

In re Application of	:	
Derek Van Der Kooy	:	DECISION DISMISSING
Application No. 09/966,768	:	PETITION
Filed: 28 September 2001	:	
Att'y Dkt. No. Bereskin & Parr	:	

This is a decision on the petition filed on 29 January, 2002, which is treated as a petition requesting that the Notice to File Missing Parts of Nonprovisional Application, mailed on 15 November, 2001, be vacated to the extent that it stated that Pages 62-64 of the specification appeared to have been omitted from the application.

The petition is **dismissed**.

On 28 September, 2001, the application was filed.

On 16 November, 2001, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that, *inter alia*, the application had been accorded a filing date of 28 September, 2001, but that pages 62-64 of the specification (description and claims) appeared to have been omitted.

In response, on 29 January, 2002, the present petition was filed, accompanied by authorization to charge counsel's deposit account for the requisite petition fee. Petitioners assert that pages 62-64 of the specification were not missing. Petitioner's concede, however, that the page number on page 64 was partly obscured during transmission so that the page number appears to be "61" rather than "64". Petitioner has also included a copy of an itemized postcard receipt.[1]

---

[1]It is noted that although petitioner's postcard receipt itemizes 68 sheets of specification and 6 sheets of sequence listing, a review of the official file reveals that 71 pages of specification, not including the 6 pages of sequence listing which are conmingled with the specification and claims, were received.

Upon review of the official file, pages 62-64 of the specification have been located among the application papers filed on 28 September, 2001. However, the page number on page 64 of the specification appears to be "61". It is obvious from the petition that no pages of specification were actually missing on 28 September, 2001. However, page 64 of the specification was misnumbered due to applicant's filing error. Petitioner should note that the pages of the specification including claims and abstract, however, must be numbered consecutively starting with 1.[2] However, the "Notice to File Missing Parts" mailed 16 November, 2001, was correct in stating that Page 64 of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be vacated.

Accordingly, the petition is dismissed. The application has been processed for filing date purposes using the application papers filed on 28 September, 2001. The copy of the original application papers supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Receipt is also acknowledged of the substitute specification filed on 29 January, 2002.

As the petition was not due to an error on the part of the USPTO, the petition fee of $130.00 will be assessed to counsel's deposit account, No. 04-1406.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of 28 September, 2001, using the application papers supplied on that date.

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[2] 37 CFR 1.52(b)(5).

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)
6660343	2003-12-09	09966772	2001-10-01	83418

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	/Rebecca L. Forman/	Date (YYYY-MM-DD)	2008-10-01
Name	Rebecca L. Forman	Registration Number	50452

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. 6660343
Issue Date: December 9,2003
Application No. 09966772
Filed: October 1,2001
Attorney Docket No. 83,418

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 1,2008 ,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 October 1,2008 . 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 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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FROM DIRECTORS OFFICE

DEC 0 3 2004

TECHNOLOGY CENTER 3600

LUEDEKA, NEELY & GRAHAM, P.C.
P.O. BOX 1871
KNOXVILLE, TN 37901

In re application of
Ashley K. Sexton et al.
Application No. 09/966,807 : DECISION ON REQUEST
Filed: September 28, 2001 : FOR WITHDRAWAL OF
For: REAL ESTATE INFORMATION SYSTEM : ATTORNEY

This is a decision on the request filed on September 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 11/04/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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LUEDEKA, NEELY & GRAHAM, P.C.
PO BOX 1871
KNOXVILLE, TN 37901

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JUN 2 0 2006
OFFICE OF PETITIONS

In re Application of Sexton :
Application No. 09/966,807 : Decision on Petition
Filing Date: August 10, 2006 :
Attorney Docket No. 56484.US/1432.0 :

This is a decision on the petition filed April 25, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A non-final Office action was mailed on December 15, 2004.

Attorney Mark Patterson filed a response and amendment on May 19, 2005. Patterson is not an attorney of record for the application.

A Notice of Non-Compliant Amendment was mailed August 11, 2005.

A Notice of Abandonment was mailed March 21, 2006.

The law firm of record forwarded the Notice to Patterson. The petition states Patterson did not receive the response until after the deadline for response had passed.

Patterson filed the instant petition on April 25, 2006. The petition includes a section entitled, "Request of Change of Correspondence Address." The petition is not signed.

Discussion:

The Office will not consider the merits of an unsigned petition.

If petitioner wishes for the Office to consider the merits of the petition, petitioner should submit a signed request for reconsideration.

If Patterson wishes to prosecute the application, a proper power of attorney should be filed.

The request to change the address of record is not signed by an attorney of record. Therefore, the correspondence address will not be changed at this time. 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, if petitioner wishes to receive future correspondence, a proper request to change the address of record should be filed.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Waddey & Patterson
1600 Division Street, Suite 500
Nashville, TN 37203

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WADDEY & PATTERSON
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

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SEP 13 2006

OFFICE OF PETITIONS

In re Application of Sexton :
Application No. 09/966,807 :
Filing Date: August 10, 2006 :
Attorney Docket No. N22335 :

Decision on Petition

This is a decision on the petition filed June 28, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A non-final Office action was mailed on December 15, 2004.

Attorney Mark Patterson filed a response and amendment on May 19, 2005. Patterson is not an attorney of record for the application.

37 CFR 1.121(c) states: "No claim text shall be presented for any claim in the claim listing with the status of 'canceled' or 'not entered.'"

The May 19, 2005 amendment included two canceled two claims. The canceled claims included claim text.

A Notice of Non-Compliant Amendment was mailed August 11, 2005.

A Notice of Abandonment was mailed March 21, 2006.

The law firm of record forwarded the Notice to Patterson. The petition states Patterson did not receive the response until after the deadline for response had passed.

Discussion:

35 U.S.C. 133 requires that if an action is mailed, and if an applicant fails to respond to such action within 6 months or within any shorter time period set by the Office, the application goes abandoned as a matter of law. A Notice was properly mailed to the address of record on August 11, 2005. Petitioner failed to respond to the Notice within the time period set in the Notice. Therefore, the application is abandoned as a matter of law.

Petitioner cites *Acceptance of Certain Non-Compliant Amendments Under 37 C.F.R. § 1.121(c)*, Official Gazette Notices (July 5, 2005). The Notice indicates the USPTO will not enforce the requirement canceled claims not include claim text. However, the fact the Notice was "incorrect" does not alter the fact a Notice was mailed and a reply was not timely received.

35 U.S.C. 133 does not distinguish "correct" Office actions from "incorrect" Office actions. Abandonment is not based on the correctness, in whole or in part, of an Office action. For example, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Non-Compliant Amendment. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the prior amendment. Petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the Notice in writing prior to the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn.

Petitioner may wish to file a petition to revive pursuant to 37 CFR 1.137.

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 NOT permitted.

The power of attorney and change of correspondence address filed with the petition is accepted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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WADDEY & PATTERSON
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

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OFFICE OF PETITIONS

In re Application of Sexton :
Application No. 09/966,807 : Decision on Petition
Filing Date: August 10, 2006 :
Attorney Docket No. N22335 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2006, to revive the above-identified application.

The petition is **granted**.

A Notice of Non-Compliant Amendment was mailed August 11, 2005. A reply was not filed and the application became abandoned at midnight on November 11, 2005. A Notice of Abandonment was mailed March 21, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3629 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

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MAY 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Glenn et al. :
Application No. 09/966,841 : ON PETITION
Filed: 27 September, 2001 :
Attorney Docket No. AMK-9225 US :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 5 April, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 22 October, 2003, for failure to file a proper reply to the final Office action mailed on 21 May, 2003, which set a three (3) month statutory period for reply. On 15 July, 2003, an amendment after final rejection was

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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 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)).

filed, along with a two (2) month extension of time. The amendment did not place the application in *prima facie* condition for allowance, however, and an advisory action was mailed on 20 October, 2003. Notice of Abandonment was mailed on 2 December, 2003.

On 5 April, 2004, the present petition was filed, accompanied by a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application will be forwarded to Technology Center 2800 for consideration of the RCE and amendment.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: James E. Parsons
Bever, Hoffman & Harms, LLP
2099 Gateway Place, Suite 320
San Jose CA 95110-1017

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

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APR 0 4 2002

OFFICE OF PETITIONS

In re Application of	:
Franz Saller	: DECISION DISMISSING
Application No. 09/966,853	: PETITION
Filed: 28 September, 2001	:
Attorney Docket No. 112740-311	:

This is a decision on the petition filed on 4 January, 2002, requesting that the above-identified application be accorded a filing date of 28 September, 2001, with Page 1 of the specification as a part of the original disclosure of the application.

The application was filed on 28 September, 2001. However, on 24 October, 2001, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a 28 September, 2001, filing date, but that Page 1 of the specification appeared to have been omitted.

In response, on 4 January, 2002 (certificate of mailing date 21 December, 2001), Page 1 of the specification was filed accompanied by the present petition. Petitioner states "[a]pplicant acknowledges that the Certificate of Mailing associated with the filing of this application indicated that the specification was on 15 sheets, while the return-receipt postcard indicated that the specification [was] (*sic*) on 16 sheets. Applicant respectfully submits, however, that this discrepancy is really of no consequence given that all pages of this application, including page 1, were definitely filed on September 28, 2001.)

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely

in the application file. If petitioner has evidence that page 1 was among the application papers received in the USPTO on 28 September, 2001, that evidence should be submitted with a renewed petition. Alternatively, if petitioner lacks any evidence that Page 1 was filed in the Office on 28 September, 2001, petitioner may request the application be accorded a filing date of the date the missing page of specification was filed in the Office.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The application file will be retained in the Office of Petitions for TWO (2) MONTHS to await receipt of petitioner's reply to this decision. Thereafter, if no reply is forthcoming, the application file will be forwarded to Initial Patent Examination Division for further processing with a filing date of 28 September, 2001, using the application papers filed on that date.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

US 0996685307P1

Creation date: 09-21-2004
Indexing Officer: DDERBY - DAVID DERBY
Team: OIPEBackFileIndexing
Dossier: 09966853

Legal Date: 07-05-2002

No.	Doccode	Number of pages
1	PETDEC	2

Total number of pages: 2

Remarks:

Order of re-scan issued on .....

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Paper No. 6

BELL, BOYD & LLOYD, LLC
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CHICAGO IL 60690-1135

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OFFICE OF PETITIONS

In re Application of	:
Franz Saller	: DECISION GRANTING
Application No. 09/966,853	: PETITION
Filed: 28 September, 2001	:
Attorney Docket No. 112740-311	:

This is a decision on the renewed petition filed on 18 June, 2002, requesting that the above-identified application be accorded a filing date of 28 September, 2001, with Page 1 of the specification as a part of the original disclosure of the application.

The application was filed on 28 September, 2001. However, on 24 October, 2001, Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a 28 September, 2001, filing date, but that Page 1 of the specification appeared to have been omitted. The petition filed on 4 January, 2002, was dismissed on 4 April, 2002.

In the present renewed petition, petitioner has submitted a copy of an itemized postcard receipt, bearing an Office date stamp of 09/28/01 with the above-identified application number and itemizing the filing of, *inter alia*, "specification on 16 sheets". In his declaration submitted with the petition filed on 4 January, 2002, petitioner's registered patent attorney, William E. Vaughn states that the postcard receipt inadvertently itemizes the filing of 16 pages of specification, while the specification as filed actually consisted of only 15 pages.

A review of the official record reveals that 14 pages of specification, numbered Pages 2 through 15, received on 28 September, 2001, are located therein. Since the individual at the USPTO who compared petitioner's postcard to the items

received found that the specification as filed contained at least 16 pages, however, the evidence is persuasive that Page 1 of the specification was among the application papers received on 28 September, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office. The application, including Page 1 of the specification, is therefore entitled to a filing date of 28 September, 2001.

The application will be processed and examined using the copy of Page 1 of the specification supplied with the petition filed on 4 January, 2002. The copies of the other application papers supplied with the petition will not be processed or entered, but will be retained in the application file.

The petition is **granted.** The petition fee paid with the petition filed on 4 January, 2002, will be credited to counsel's deposit account, No. 02-1818.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of 28 September, 2001, using the application papers filed on 28 September, 2001, and the copy of Page 1 of the specification supplied on 4 January, 2002.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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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

WEINER & BURT, P.C.
P.O. BOX 186
HARRISVILLE, MI 48740

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JAN 0 7 2004

OFFICE OF PETITIONS

In re Application of
Kilstrom, Neall
Application No. 09/966,856
Filed: September 28, 2001
Attorney Docket No. KNX-100-A

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 15, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed May 28, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 29, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Karen Creasy
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)
6592582	2003-07-15	09966858	2001-09-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/J. Gary Mohr/	Date (YYYY-MM-DD)	2008-10-17
Name	J. Gary Mohr	Registration Number	27575

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. 6592582
Issue Date: July 15,2003
Application No. 09966858
Filed: September 28,2001
Attorney Docket No. 14834 (ETH-1540)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 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 October 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 the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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APR 25 2005

OFFICE OF PETITIONS

In re Patent No. 6,740,290
Issue Date: May 25, 2004
Application No. 09/966,861
Filed: December 13, 2002
Attorney Docket No. 09799107-0009
For: HIGH PURITY COBALT, METHOD OF MANUFACTURING THEREOF, AND HIGH PURITY COBALT TARGETS

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.183, filed August 2, 2004 (certificate of mailing date July 28, 2004), to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is also being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

The petition under 37 CFR 1.183 is **dismissed as moot.**

The request under 37 CFR 3.81 is **dismissed**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has not met requirement (3) set forth above.

This type of request is handled in Publications Division, not in the Office of Petitions. Therefore, please submit any reconsideration request to:

ATTN: CERTIFICATE OF CORRECTION BRANCH
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 18, 2006

TO SPE OF : ART UNIT 2615

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/966873 Patent No.: 7,065,220 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: _____

_____

_____

_____

_____

Sinh Tran — **SPE**

2615 — **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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Date Mailed : November 12, 2005

Patent No. :6,942,566
Inventor :BAERLOCHER, ANTHONY J., et al.
Patent Issued :September 12, 2005
Docket No. :0112300-482

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.

Inspection of the application for the patent reveals, however, that in connection with the alleged errors pertaining to the claims 1, 16, 28 and 35 to which applicant has referred; the patent is considered printed in accordance with the record in the Patent and Trademark Office as passed to issue by the examiner since the errors as noted by applicant cannot be found in the printed patent.

There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Hoyt. Green
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9380 ext. 123 or (703) 308- 9380 ext. 123

Adam H. Masia
BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

CBN/arg

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

Maria M. Eliseeva, Esq.
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston, MA 02111

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NOV 14 2002

OFFICE OF PETITIONS

In re Application of :
Dan A. Steinberg, et al. :
Application No. 09/966,973 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. ACT-162 (1117-8) :

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 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 December 18, 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 February 19, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,960.00 extension of time submitted with the petition on October 3, 2002 was subsequent to the maximum extendable period for reply, the fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

Antoinette F. Konski
McCutchen, Doyle, Brown & Enersen, LLP
Three Embarcadero Center, 18th Floor
San Francisco, CA 94111

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JUL 3 1 2002

OFFICE OF PETITIONS

In re Application of
Lehman, McCoy, Yuan, Manker, Orjala, Marrone, Santamaria
Application No.: 09/966,982
Filed: September 27, 2001
Attorney Docket No: AQ 2018.20
For: NOVEL STRAIN OF STREPTOMYCES FOR CONTROLLING PLANT DISEASES

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 17, 2002.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on October 23, 2001, indicating that petitioner did not file a proper oath or declaration in compliance with 37 CFR 1.63 that was signed by inventor McCoy, did not remit the $130.00 surcharge, and did not file substitute drawings. The Notice set forth an extendable period of reply of two months from the date it was mailed. Petitioner filed the instant petition on April 17, 2002, along with the substitute drawings, and an authorization to charge a designated deposit account for the surcharge and the necessary four-month extension of time.

Through the instant petition, declaration of facts as attested to by Carol Gruppi, and Connie Tomlinson, and the documentary evidence provided, petitioner established that, although inventor McCoy was mailed the complete application papers (specification, abstract, claims, drawings, and assignment), he constructively refused to execute the declaration and the join the above-cited 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(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.

Deposit account 50-1189 will be assessed $130.00 for the surcharge and $1,440 for the extension of time within the fourth month.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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NOV 2 1 2005

OFFICE OF PETITIONS

Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, Illinois 60610

In re Application of
Vollrath et al.
Application No. 09/967,008
Filed: September 28, 2001
Attorney Docket NO. 10808/203

: DECISION HOLDING PTA REQUEST
:IN ABEYANCE UNTIL AFTER ISSUE
:DATE

This decision is in response to applicants' REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(b) [1] timely filed on June 16, 2005 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance to at least 836 days.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

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[1]Issue fee paid on June 16, 2005.

After the mailing of this decision, this application will be forwarded to the Office of patent publications for a prompt issuance of the patent. The Office apologizes for any delays in this decision and notes that any delays in issuing the application within four months of the payment of the issue fee and all other requirements being satisfied will be added to the determination that is mailed with the issue notification letter.

The Office has assessed the $200.00 fee required of this request. No additional fees are required in considering this matter.

Any questions should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of
Gou Kojima et al.
Application No. 09/967,010
Filed: September 27, 2001
Attorney Docket Number: 16869S-035700US
Title: USER INTERFACE INTEGRATION METHOD

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on October 14, 2005.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 11, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 12, 2005. A notice of abandonment was mailed on October 18, 2005.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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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RYNDAK & SURI LLP
200 W MADISON STREET
SUITE 2100
CHICAGO IL 60602

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JUL 0 5 2006

OFFICE OF PETITIONS

In re Patent of	:	
Chung, et al.	:	
Patent No. 6,730,343	:	
Issue Date: May 4, 2004	:	Decision on Petition
Application No. 09/967,041	:	
Filing Date: September 28, 2001	:	
Attorney Docket No. 876P138	:	

This is a decision on the petition under 37 CFR 1.183, filed November 11, 2005, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is being treated as a request under 37 CFR 3.81(b) to accept the correction of the assignee data.

The request under 37 CFR 3.81(b) is **granted**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Pursuant to petitioner's authorization, deposit account no. 50-0503 will be charged the required $130.00 processing fee.

Petitioner has met the requirements set forth above. Therefore, the request is granted.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis 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
www.uspto.gov

Paper No. 6

IAN F. BURNS
P O BOX 20038
RENO NV 89515

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MAY 23 2002

OFFICE OF PETITIONS
ON PETITION

In re Application of
Jerald C. Seelig, et al.
Application No. 09/967,055
Filed: September 28, 2001
Attorney Docket No. 619.438 ACC.UA-Heads

This is a decision on the petition filed January 14, 2002 (certificate of mail date, December 14, 2001) and supplemented on May 2, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

This application became abandoned pursuant to 35 USC 122 (b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

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 county or under a multinational treaty;[1] (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date of August 8, 2002 accompanies this decision on petition.

This application is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination and Policy

[1]The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

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JJGJR.: 04-04

Paper No: 13

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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MAY 10 2004
OFFICE OF PETITIONS

In re Application of
Barbarella, et al :
Application No. 09/967,057 : ON PETITION
Filed: 28 September, 2001 :
Attorney Docket No. 3797IN-1-CIP :

This is a decision on the petition filed on 1 August, 2003, and considered under 37 C.F.R. §1.182.

The Office regrets the delay in addressing this matter. (It is noted that Petitioner filed the papers seeking priority alternatively seeking to revive the parent Application No. 09/540,659.)

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.182 is **DISMISSED**.

BACKGROUND

The record reflects that:

- Office records reflect that Petitioner filed on 28 September, 2001, the instant application as a continuation-in-part of the parent Application No. 09/540,659 (the '659 application), along with a request and fee authorization for extension(s) of time as required (one month, in that context);

- however, because the papers were not matched with the file of the '659 application, it appeared that Petitioner failed to reply timely and 30 May, 2001, final Office action in

that matter , with a reply due absent a request and fee for extension of time on Thursday, 30 August, 2001;

- a result, the '659 application was deemed abandoned after midnight 30 August, 2001;
- Notice of Abandonment for the '659 was mailed on 8 March, 2002;
- it appears that Petitioner was not aware that the '659 application had been deemed abandoned after midnight 30 August, 2001, until he was denied priority in the instant application, and at that time improvidently filed the instant petition herein, rather than in the instant parent application;
- the instant petition was accompanied by: the statement of Petitioner Joseph Kovarik (Reg. No. 33,005) and copies of documents as to the instant application and the '659 application.

CONCLUSION

Because the resolution of the matter addressed here by Petitioner occurs with the withdrawal of the holding of abandonment erroneously entered in the '659 application, and the resulting co-pendency of the instant application and it's '659 parent, the instant petition under 37 C.F.R. §1.182 hereby is **dismissed as moot**.

The file is forwarded to the Technology Center 1700 to correct Office records to reflect that the instant application was in fact co-pendent with the parent Application No. 09/540,659, and for such further processing as required in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Commissioner for Patents
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SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Abhay A. Dharmadhikari et al :
Application No. 09/967,065 : DECISION GRANTING PETITION
Filed: September 28, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 42390P11810 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 29, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of July 28, 2005 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2154 for appropriate action in the normal course of business on the reply received April 27, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions